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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, September 29, 1992*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 29, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray for all Your blessings upon us, O God, and we pray that Your goodness and mercy will be with all Your people. As You have made us in Your image, we pray that You would show us the way to express that unity with others in our communities, in our Nation, and in our world. May our words and actions, our thoughts and deeds, demonstrate the bond and covenant between people that is Your gift to us, and may we be faithful to that heritage in word and deed. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wyoming [Mr. THOMAS] please come forward and lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

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

WELCOME TO THE WORLD OF THE RICH

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

Mr. BALLENGER. Mr. Speaker, whenever a politician needs money for some pet project, he will say, "We'll just tax the rich."

That is what Mr. Clinton says he will do to raise $150 billion for his new programs.

But, just who are these rich people?

Mr. Clinton claims that they are the top 2 percent of all taxpayers—those making more than $200,000.

But, according to the Treasury Department, the top 2 percent includes individual taxpayers with taxable incomes over $64,800.

And, even that will not be enough.

To raise $150 billion, Mr. Clinton would have to raise taxes on all individuals with taxable incomes above $36,600.

So, if you are making $36,600, the good news is that you are now considered rich. The bad news is that Mr. Clinton wants more of your money.

UNDER THE BUSH ADMINISTRATION, WORKING AMERICANS GET THE SHAFT

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

Mr. APPLEGATE. Mr. Speaker, since the beginning of the Reagan-Bush monarcy, hardworking coal miners are getting the shaft. Coal miners, after years of breathing coal dust in the mines, have found it almost impossible to get black lung benefits. In fact, there are only 5 percent who apply who are able to get it, and many of them are dying.

The promise also was that coal miners who retire would get health benefits. That is a promise that has been broken and will continue to be, unless we pass legislation here, but the Bush veto pen is ready to strike again if legislation reaches his desk. This is to protect the oil companies and the coal companies who own the coal.

What we need is a President of the United States who cares for America's working men and women. We need Bill Clinton.

CONGRESS CAN LIMIT SPENDING AND REDUCE THE DEFICIT NOW

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

Mr. THOMAS of Wyoming. Mr. Speaker, as usual, I have spent 3 days in Wyoming in little towns like Hulett and Upton and Newcastle, and I found, as usual, that most voters are most concerned about the deficit. They think Congress is totally irresponsible in having a deficit of $330 billion, and really not making any progress to do anything about it; more concerned about jobs and the deficit than any other matter.

We need to do something about it, rather than complaining about what somebody else is doing, rather than rising every day to complain about the President or Clinton. We need to do it ourselves. We can do something about the deficit here in the Congress.

Not long ago we talked about a balanced-budget amendment and the leadership said, "We don't need that." Thirty years of evidence is that we do need it, and we can do something about it, starting today, with the kinds of things we are working on in appropriations. We need to limit spending so that we can balance the budget.

ELIMINATING THE DEFICIT AND CREATING NEW JOBS

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

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. DERRICK. Mr. Speaker, when Bill Clinton is elected President in November, the new Commander in Chief's No. 1 priority will be to eliminate the deficit and to create new jobs. The Congress should work with President Clinton to achieve this goal.

For fiscal year 1992, the deficit will soar to $333.5 billion. The deficit has sapped the United States of its competitiveness. It has robbed our children and restricted their opportunities. The creation of jobs will fuel the economy to make Americans less dependent on Government spending.

The job of deficit reduction and economic expansion, however, will not be accomplished without leadership from the President and the Congress.

The American people will be making choices. Do we want to move ahead or to stand still?

Do we want the recession to continue or do we want an expanded economy and new jobs?

Mr. Speaker, the Bush administration has stifled our economic growth and it has handcuffed job creation.

The Clinton administration will not make the same mistake.

URGING MEMBERS TO SHARE IN CELEBRATION HONORING AMERICA'S OLYMPIANS

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

Mr. HEFLEY. Mr. Speaker, just last month we were glued to our TV to watch our Olympic athletes in action. The summer games in Barcelona and the winter games in Albertville were teriffic. To celebrate the U.S. excellent performance, the Olympic Committee is holding its second annual Olympic dinner tomorrow night at the Washington Hilton Hotel. Members of this House and the Senate have been invited as honored guests. This is an important evening for our athletes. I know they would appreciate it if the Members could take a few minutes, come to the dinner, and help them celebrate their achievements.

I know the schedule is busy and there is much to be done. We are all anxious to finish up business and head home, but I would encourage everyone to take a part of tomorrow evening to attend the dinner, let our athletes know how much we appreciate their hard work and dedication. They made America proud.

THE ADMINISTRATION ROADBLOCKS ANTICRIME BILLS

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

Mr. SCHUMER. Mr. Speaker, every poll in America shows that the American people are fed up with the gridlock between the President and Congress, but the President just does not get it. There he went again yesterday on the crime issue. It was as if he had not been in Washington for the last few years.

There is a tough crime bill on the floor of the Senate, a bill that would go a long way to reducing the crime that Americans throughout America fear. The President ignores it.

On autojacking, the President again does not even pay attention to what is going on. We have a tough bill, a bill I wrote, that will hit the floor of the House this week. The bill is supported by all law enforcement, it is supported by the AAA, the Automobile Club of America, and by just about every group that has looked at it, consumer groups. It is opposed by the big three auto companies.

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And where is the President on this issue? Nowhere. He goes to St. Louis and talks about a totally inane proposal that will not help us move the auto theft bill, a bill that the gentleman from Wisconsin, Mr. JIM SENSENBRENNER, and I are sponsoring.

Where is the President on my auto theft bill? He is behind the roadblock, that is where he is.

HEALTH FREEDOM ACT

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

Mr. RICHARDSON. Mr. Speaker, recently I introduced the Health Freedom Act, a companion piece of legislation to that of Senator HATCH in the Senate.

This legislation simply states that there are alternative health care styles that involve dietary supplements, herbs, vitamins.

Unfortunately, the FDA and the drug companies want to corner the market on knowledge and what is positive health care for the American people. Many Americans practice alternative health care, using dietary supplements, herbs, and vitamins, and unfortunately the drug companies and the FDA have taken after many of these new emerging industries that are new, that are clean, that have been proven effective, and that right now simply want the ability and chance to compete.

Mr. Speaker, there is no stronger grassroots movement for alternative health care, preventive, positive, than the Health Freedom Act, and I urge all my colleagues to take a look at this piece of legislation as we look at health care in the 1990's and national health care legislation.

PERMISSION FOR EACH SUBCOMMITTEE OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, SEPTEMBER 30, 1992

Mr. THORNTON. Mr. Speaker, I ask unanimous consent that each subcommittee of the Committee on Government Operations be permitted to sit during proceedings under the 5-minute rule on Wednesday, September 30, 1992.

This request has been cleared with the minority.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON THURSDAY, OCTOBER 1, 1992

Mr. THORNTON. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit during proceedings under the 5-minute rule on Thursday, October 1, 1992.

This request has also been cleared with the minority.

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

There was no objection.

CONFERENCE REPORT ON H.R. 3508, HEALTH PROFESSIONS EDUCATION EXTENSION AMENDMENTS OF 1992

Mr. RICHARDSON submitted the following conference report and statement on the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-925)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Education Extension Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH PROFESSIONS EDUCATION

Sec. 101. Table of contents regarding revised title VII of Public Health Service Act.
Sec. 102. Revision of title VII of Public Health Service Act.
Sec. 103. Effective date.

TITLE II—NURSE EDUCATION

Sec. 201. Short title.
Sec. 202. Special project grants and contracts.
Sec. 203. Advanced nurse education.
Sec. 204. Nurse practitioner and nurse midwife programs.
Sec. 205. Special projects regarding disadvantaged individuals.
Sec. 206. Traineeships for advanced education of professional nurses.
Sec. 207. Nurse anesthetists.
Sec. 208. Student loans.
Sec. 209. Certain generally applicable provisions.
Sec. 210. Demonstration program regarding service in certain health care facilities.
Sec. 211. Transfer of loan repayment program.
Sec. 212. Advisory council on nurses education; review committee.
Sec. 213. Evaluations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Advisory Council on Graduate Medical Education.
Sec. 302. Commission on allied health.
Sec. 303. Study regarding clinical laboratory technologists for medically underserved and rural communities.
Sec. 304. Residency training programs in emergency medicine.
Sec. 305. Certain clinical traineeships.
Sec. 306. Special consolidated loan program.
Sec. 307. National Advisory Council on Medical Licensure.
Sec. 308. Required assurances regarding bloodborne diseases.
Sec. 309. Study on effectiveness of health professions programs.
Sec. 310. Delayed applicability of certain provisions.
Sec. 311. Certain application procedures.
Sec. 312. Certain projects.

TITLE I—HEALTH PROFESSIONS EDUCATION

SEC. 101. TABLE OF CONTENTS REGARDING REVISED TITLE VII OF PUBLIC HEALTH SERVICE ACT.

A table describing the contents of title VII of the Public Health Service Act, as amended by section 102 of this Act, is as follows:

TITLE VII—HEALTH PROFESSIONS EDUCATION

PART A—STUDENT LOANS

SUBPART I—INSURED HEALTH EDUCATION ASSISTANCE LOANS TO GRADUATE STUDENTS

Sec. 701. Statement of purpose.
Sec. 702. Scope and duration of loan insurance program.
Sec. 703. Limitations on individual insured loans and on loan insurance.
Sec. 704. Sources of funds.
Sec. 705. Eligibility of borrowers and terms of insured loans.
Sec. 706. Certificate of loan insurance; effective date of insurance.
Sec. 707. Default of borrower.
Sec. 708. Risk-based premiums.
Sec. 709. Office for Health Education Assistance Loan Default Reduction.
Sec. 710. Insurance account.
Sec. 711. Powers and responsibilities of Secretary.
Sec. 712. Participation by Federal credit unions in Federal, state, and private student loan insurance programs.
Sec. 713. Determination of eligible students.
Sec. 714. Repayment by Secretary of loans of deceased or disabled borrowers.
Sec. 715. Additional requirements for institutions and lenders.
Sec. 719. Definitions.
Sec. 720. Authorization of appropriations.

SUBPART II—FEDERALLY SUPPORTED STUDENT LOAN FUNDS

Sec. 721. Agreements for operation of school loan funds.
Sec. 722. Loan provisions.
Sec. 723. Medical schools and primary health care.
Sec. 724. Individuals from disadvantaged backgrounds.
Sec. 725. Administrative provisions.
Sec. 726. Provision by schools of information to students.
Sec. 727. Procedures for appeal of termination of agreements.
Sec. 728. Distribution of assets from loan funds.
Sec. 735. Authorization of appropriations; certain other funding issues.

PART B—STUDENTS FROM DISADVANTAGED BACKGROUNDS

Sec. 736. Scholarships for students of exceptional financial need.
Sec. 737. Scholarships generally; certain other purposes.
Sec. 738. Loan repayments and fellowships regarding faculty positions.
Sec. 739. Centers of excellence.
Sec. 740. Educational assistance regarding undergraduates.

PART C—TRAINING IN PRIMARY HEALTH CARE

Sec. 746. Area health education center programs.
Sec. 747. Family medicine.
Sec. 748. General internal medicine and general pediatrics.
Sec. 749. General practice of dentistry.
Sec. 750. Physician assistants.
Sec. 751. Podiatric medicine.
Sec. 752. General provisions for certain programs.

PART D—TRAINING IN CERTAIN HEALTH PROFESSIONS

SUBPART I—PUBLIC HEALTH AND PREVENTIVE MEDICINE

Sec. 761. Public health traineeships.
Sec. 762. Public health special projects.
Sec. 763. Preventive medicine; dental public health.
Sec. 765. Authorization of appropriations.

SUBPART II—ALLIED HEALTH PROFESSIONS

Sec. 766. Traineeships.
Sec. 767. Project grants and contracts.

SUBPART III—HEALTH ADMINISTRATION

Sec. 771. Traineeships and special projects.

PART E—SPECIAL TRAINING PROJECTS

Sec. 776. Acquired immune deficiency syndrome.
Sec. 777. Geriatrics.
Sec. 778. Rural areas.

PART F—MISCELLANEOUS PROGRAMS

Sec. 781. Research on certain health professions issues.
Sec. 782. Chiropractic demonstration projects.

PART G—GENERAL PROVISIONS

Sec. 791. Preferences and required information in certain programs.
Sec. 792. Health professions data.
Sec. 793. Statistics; annual report.
Sec. 794. Prohibition against discrimination on basis of sex.
Sec. 795. Obligated service regarding certain programs.
Sec. 798. Certain general provisions.
Sec. 799. Definitions.

SEC. 102. REVISION OF TITLE VII OF PUBLIC HEALTH SERVICE ACT.

Title VII of the Public Health Service Act (42 U.S.C. 292a et seq.) is amended to read as follows:

"TITLE VII—HEALTH PROFESSIONS EDUCATION

"PART A—STUDENT LOANS

"Subpart I—Insured Health Education Assistance Loans to Graduate Students

"SEC. 701. STATEMENT OF PURPOSE.

"The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in (and certain former students of) eligible institutions (as defined in section 719).

"SEC. 702. SCOPE AND DURATION OF LOAN INSURANCE PROGRAM.

"(a) IN GENERAL.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 719) to borrowers covered by Federal loan insurance under this subpart shall not exceed $350,000,000 for fiscal year 1993, $375,000,000 for fiscal year 1994, and $425,000,000 for fiscal year 1995. If the total amount of new loans made and installments paid pursuant to lines of credit in any fiscal year is less than the ceiling established for such year, the difference between the loans made and installments paid and the ceiling shall be carried over to the next fiscal year and added to the ceiling applicable to that fiscal year, and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans (including loans to new borrowers) and paying installments for such fiscal year. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program or to obtain a loan under section 705(a)(1)(B) to pay interest on such prior loans; but no insurance may be granted for any loan made or installment paid after September 30, 1998. The total principal amount of Federal loan insurance available under this subsection shall be granted by the Secretary without regard to any apportionment for the purpose of chapter 15 of title 31, United States Code, and without regard to any similar limitation.

"(b) CERTAIN LIMITATIONS AND PRIORITIES.—

"(1) LIMITATIONS REGARDING LENDERS, STATES, OR AREAS.—The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"(2) PRIORITY FOR CERTAIN LENDERS.—In providing certificates of insurance under section 706 through comprehensive contracts, the Secretary shall give priority to eligible lenders that agree—

"(A) to make loans to students at interest rates below the rates prevailing, during the period involved, for loans covered by Federal loan insurance pursuant to this subpart; or

"(B) to make such loans under terms that are otherwise favorable to the student relative to the terms under which eligible lenders are generally making such loans during such period.

"(c) AUTHORITY OF STUDENT LOAN MARKETING ASSOCIATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of, purchase, service, sell, consolidate, or otherwise deal in loans which are insured by the Secretary under this subpart, except that if any loan made under this subpart is included in a consolidated loan pursuant to the authority of the Association under part B of title IV of the Higher Education Act of 1965, the interest rate on such consolidated loan shall be

set at the weighted average interest rate of all such loans offered for consolidation and the resultant per centum shall be rounded downward to the nearest one-eighth of 1 per centum, except that the interest rate shall be no less than the applicable interest rate of the guaranteed student loan program established under part B of title IV of the Higher Education Act of 1965. In the case of such a consolidated loan, the borrower shall be responsible for any interest which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of any provision of the Higher Education Act of 1965.

"(2) APPLICABILITY OF CERTAIN FEDERAL REGULATIONS.—With respect to Federal regulations for lenders, this subpart may not be construed to preclude the applicability of such regulations to the Student Loan Marketing Association or to any other entity in the business of purchasing student loans, including such regulations with respect to applications, contracts, and due diligence.

"SEC. 703. LIMITATIONS ON INDIVIDUAL INSURED LOANS AND ON LOAN INSURANCE.

"(a) IN GENERAL.—The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $20,000 in the case of a student enrolled in a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, or podiatric medicine, and $12,500 in the case of a student enrolled in a school of pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or clinical psychology. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not at any time exceed $80,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, or podiatric medicine, and $50,000 in the case of a borrower who is or was a student enrolled in a school of pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or clinical psychology. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

"(b) EXTENT OF INSURANCE LIABILITY.—The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 707 or 714.

"SEC. 704. SOURCES OF FUNDS.

"Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"SEC. 705. ELIGIBILITY OF BORROWERS AND TERMS OF INSURED LOANS.

"(a) IN GENERAL.—A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

"(1) made to—

"(A) a student who—

"(i)(I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

"(ii) is or will be a full-time student at the eligible institution;

"(iii) has agreed that all funds received under such loan shall be used solely for tuition, other reasonable educational expenses, including fees, books, and laboratory expenses, and reasonable living expenses, incurred by such students;

"(iv) if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section; and

"(v) in the case of a pharmacy student, has satisfactorily completed three years of training; or

"(B) an individual who—

"(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

"(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid;

"(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and

"(iv) if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section;

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

"(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 25 years beginning not earlier than 9 months nor later than 12 months after the date of—

"(i) the date on which—

"(I) the borrower ceases to be a participant in an accredited internship or residency program of not more than four years in duration;

"(II) the borrower completes the fourth year of an accredited internship or residency program of more than four years in duration; or

"(III) the borrower, if not a participant in a program described in subclause (I) or (II), ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution; or

"(ii) the date on which a borrower who is a graduate of an eligible institution ceases to be a participant in a fellowship training program not in excess of two years or a participant in a full-time educational activity not in excess of two years, which—

"(I) is directly related to the health profession for which the borrower prepared at an eligible institution, as determined by the Secretary; and

"(II) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in a program described in subclause (I) or (II) of clause (i) or prior to the completion of the borrower's participation in such program,

except as provided in subparagraph (C), except that the period of the loan may not exceed 33 years from the date of execution of the note or written agreement evidencing it, and except that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the costs of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

"(C) provides that periodic installments of principal and interest need not be paid, but interest shall accrue, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution (or at an institution defined by section 481(a) of the Higher Education Act of 1965); (ii) not in excess of four years during which the borrower is a participant in an accredited internship or residency program, (including any period in such a program described in subclause (I) or subclause (II) of subparagraph (B)(i)); (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States; (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act; (v) not in excess of three years during which the borrower is a member of the National Health Service Corps; (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973; (vii) not in excess of 3 years, for a borrower who has completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine, preventive medicine, or general pediatrics and who is practicing primary care; (viii) not in excess of 1 year, for borrowers who are graduates of schools of chiropractic; (ix) any period not in excess of two years which is described in subparagraph (B)(ii); and (x) in addition to all other deferments for which the borrower is eligible under clauses (i) through (ix), any period during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf conflict, and any period described in clauses (i) through (x) shall not be included in determining the 25-year period described in subparagraph (B);

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be compounded not more frequently than annually and payable in installments over the period of the loan except as provided in subparagraph (C), except that the note or other written agreement may provide that payment of any interest may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal for the purposes of calculating a repayment schedule;

"(E) offers, in accordance with criteria prescribed by regulation by the Secretary, a schedule for repayment of principal and interest under which payment of a portion of the principal and interest otherwise payable at the beginning of the repayment period (as defined in such regulations) is deferred until a later time in the period;

"(F) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan;

"(G) provides that the check for the proceeds of the loan shall be made payable jointly to the borrower and the eligible institution in which the borrower is enrolled;

"(H) notwithstanding the provisions of the Fair Debt Collection Practices Act, authorizes an institution or postgraduate training program attended by the borrower to assist in the collection of any loan that becomes delinquent, including providing information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower's loans; and

"(I) contains such other terms and conditions consistent with the provisions of this subpart

and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan; and

"(3) subject to the consent of the student and subject to applicable law, the eligible lender has obtained from the student appropriate demographic information regarding the student, including racial or ethnic background.

"(b) LIMITATION ON RATE OF INTEREST.—The rate of interest prescribed and defined by the Secretary for the purpose of subsection (a)(2)(D) may not exceed the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter plus 3 percentage points, rounded to the next higher one-eighth of 1 percent.

"(c) MINIMUM ANNUAL PAYMENT BY BORROWER.—The total of the payments by a borrower during any year or any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart shall not be less than the annual interest on the outstanding principal, except as provided in subsection (a)(2)(C), unless the borrower, in the written agreement described in subsection (a)(2), agrees to make payments during any year or any repayment period in a lesser amount.

"(d) APPLICABILITY OF CERTAIN LAWS ON RATE OR AMOUNT OF INTEREST.—No provision of any law of the United States (other than subsections (a)(2)(D) and (b)) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.

"(e) DETERMINATION REGARDING FORBEARANCE.—Any period of time granted to a borrower under this subpart in the form of forbearance on the loan shall not be included in the 25-year total loan repayment period under subsection (a)(2)(C).

"(f) LOAN REPAYMENT SCHEDULE.—Lenders and holders under this subpart shall offer borrowers graduated loan repayment schedules that, during the first 5 years of loan repayment, are based on the borrower's debt-to-income ratio.

"(g) RULE OF CONSTRUCTION REGARDING DETERMINATION OF NEED OF STUDENTS.—With respect to any determination of the financial need of a student for a loan covered by Federal loan insurance under this subpart, this subpart may not be construed to limit the authority of any school to make such allowances for students with special circumstances as the school determines appropriate.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'active duty' has the meaning given such term in section 101(18) of title 37, United States Code, except that such term does not include active duty for training.

"(2) The term 'Persian Gulf conflict' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

"SEC. 706. CERTIFICATE OF LOAN INSURANCE; EFFECTIVE DATE OF INSURANCE.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR ISSUANCE OF CERTIFICATE.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible borrower which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) EFFECTIVE DATE OF INSURANCE.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance is made to a student described in section 705(a)(1). Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to section 708.

"(3) CERTAIN AGREEMENTS FOR LENDERS.—An application submitted pursuant to subsection (a)(1) shall contain—

"(A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to section 708; and

"(B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

"(b) AUTHORITY REGARDING COMPREHENSIVE INSURANCE COVERAGE.—

"(1) IN GENERAL.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 702, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) LINES OF CREDIT BEYOND CUTOFF DATE.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a borrower a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 702, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) ASSIGNMENT OF INSURANCE RIGHTS.—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned by such lender, subject to regulation by the Secretary, only to—

"(1) another eligible lender (including a public entity in the business of purchasing student loans); or

"(2) the Student Loan Marketing Association.

"(d) EFFECT OF CONSOLIDATION OF OBLIGATIONS.—The consolidation of the obligations of two or more federally insured loans obtained by a borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"(e) RULE OF CONSTRUCTION REGARDING CONSOLIDATION OF DEBTS.—Nothing in this section shall be construed to preclude the lender and the borrower, by mutual agreement, from consolidating all of the borrower's debts into a single instrument under the terms applicable to an insured loan made at the same time as the consolidation. The lender or loan holder should provide full information to the borrower concerning the advantages and disadvantages of loan consolidation. Nothing in this section shall be construed to preclude the consolidation of the borrower's loans insured under this subpart under section 428C of the Higher Education Act of 1965. Any loans insured pursuant to this subpart that are consolidated under section 428C of such Act shall not be eligible for special allowance payments under section 438 of such Act.

"SEC. 707. DEFAULT OF BORROWER.

"(a) CONDITIONS FOR PAYMENT TO BENEFICIARY.—Upon default by the borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, subject to subsection (h), commencement and prosecution of an action) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. Not later than one year after the date of the enactment of the Health Professions Education Extension Amendments of 1992, the Secretary shall establish performance standards for lenders and holders of loans under this subpart, including fees to be imposed for failing to meet such standards.

"(b) SUBROGATION.—Upon payment by the Secretary of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may sell without recourse to eligible lenders (or other entities that the Secretary de-

termines are capable of dealing in such loans) notes or other evidence of loans received through assignment under the first sentence.

"(c) FORBEARANCE.—Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

"(d) REASONABLE CARE AND DILIGENCE REGARDING LOANS.—Nothing in this section or in this subpart shall be construed to excuse the eligible lender or holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 706(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender from obtaining further Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence, exercise substantial effort, or comply with such requirements, as the case may be.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 706(c).

"(2) The term 'amount of the loss' means, with respect to a loan, unpaid balance of the principal amount and interest on such loan, less the amount of any judgment collected pursuant to default proceedings commenced by the eligible lender or holder involved.

"(3) The term 'default' includes only such defaults as have existed for 120 days.

"(f) REDUCTIONS IN FEDERAL REIMBURSEMENTS OR PAYMENTS FOR DEFAULTING BORROWERS.—The Secretary shall, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans. Procedures for reduction of payments under the medicare program are provided under section 1892 of the Social Security Act. Notwithstanding such section 1892, any funds recovered under this subsection shall be deposited in the insurance fund established under section 710.

"(g) CONDITIONS FOR DISCHARGE OF DEBT IN BANKRUPTCY.—A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under any chapter of title 11, United States Code, only if such discharge is granted—

"(1) after the expiration of the five-year period beginning on the first date, as specified in subparagraphs (B) and (C) of section 705(a)(2), when repayment of such loan is required;

"(2) upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable; and

"(3) upon the condition that the Secretary shall not have waived the Secretary's rights to apply subsection (f) to the borrower and the discharged debt.

"(h) REQUIREMENT REGARDING ACTIONS FOR DEFAULT.—

"(1) IN GENERAL.—With respect to the default by a borrower on any loan covered by Federal loan insurance under this subpart, the Secretary shall, under subsection (a), require an eligible lender or holder to commence and prosecute an action for such default unless—

"(A) in the determination of the Secretary—

"(i) the eligible lender or holder has made reasonable efforts to serve process on the borrower involved and has been unsuccessful with respect to such efforts, or

"(ii) prosecution of such an action would be fruitless because of the financial or other circumstances of the borrower;

"(B) for such loans made before the date of the enactment of the Health Professions Reauthorization Act of 1988, the loan involved was made in an amount of less than $5,000; or

"(C) for such loans made after such date, the loan involved was made in an amount of less than $2,500.

"(2) RELATIONSHIP TO CLAIM FOR PAYMENT.—With respect to an eligible lender or holder that has commenced an action pursuant to subsection (a), the Secretary shall make the payment required in such subsection, or deny the claim for such payment, not later than 60 days after the date on which the Secretary determines that the lender or holder has made reasonable efforts to secure a judgment and collect on the judgment entered into pursuant to this subsection.

"(3) STATE COURT JUDGMENTS.—With respect to any State court judgment that is obtained by a lender or holder against a borrower for default on a loan insured under this subpart and that is subrogated to the United States under subsection (b), any United States attorney may register such judgment with the Federal courts for enforcement.

"(i) INAPPLICABILITY OF FEDERAL AND STATE STATUTE OF LIMITATIONS ON ACTIONS FOR LOAN COLLECTION.—Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by the Secretary, the Attorney General, or other administrative head of another Federal agency, as the case may be, for the repayment of the amount due from a borrower on a loan made under this subpart that has been assigned to the Secretary under subsection (b).

"SEC. 708. RISK-BASED PREMIUMS.

"(a) AUTHORITY.—With respect to a loan made under this subpart on or after January 1, 1993, the Secretary, in accordance with subsection (b), shall assess a risk-based premium on an eligible borrower and, if required under this section, an eligible institution that is based on the default rate of the eligible institution involved (as defined in section 719).

"(b) ASSESSMENT OF PREMIUM.—Except as provided in subsection (d)(2), the risk-based premium to be assessed under subsection (a) shall be as follows:

"(1) LOW-RISK RATE.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of not to exceed five percent, such borrower shall be assessed a risk-based premium in an amount equal to 6 percent of the principal amount of the loan.

"(2) MEDIUM-RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of five percent but not to exceed 10 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 5 percent of the principal amount of the loan.

"(B) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval, an annual default management plan, that shall specify the detailed short-term and long-term procedures that such institution will have in place to minimize defaults on loans to borrowers under this subpart. Under such plan the institution shall, among other measures, provide an exit interview to all borrowers that includes information concerning repayment schedules, loan deferments, forbearance, and the consequences of default.

"(3) HIGH-RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of 10 percent but not to exceed 20 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan.

"(B) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval a plan that meets the requirements of paragraph (2)(B).

"(4) INELIGIBILITY.—An individual shall not be eligible to obtain a loan under this subpart for attendance at an institution that has a default rate in excess of 20 percent.

"(c) REDUCTION OF RISK-BASED PREMIUM.—Lenders shall reduce by 50 percent the risk-based premium to eligible borrowers if a credit worthy parent or other responsible party cosigns the loan note.

"(d) ADMINISTRATIVE WAIVERS.—

"(1) HEARING.—The Secretary shall afford an institution not less than one hearing, and may consider mitigating circumstances, prior to making such institution ineligible for participation in the program under this subpart.

"(2) EXCEPTIONS.—In carrying out this section with respect to an institution, the Secretary may grant an institution a waiver of requirements of paragraphs (2) through (4) of subsection (b) if the Secretary determines that the default rate for such institution is not an accurate indicator because the volume of the loans under this subpart made by such institution has been insufficient.

"(3) TRANSITION FOR CERTAIN INSTITUTIONS.—During the 3-year period beginning on the effective date of the Health Professions Education Extension Amendments of 1992—

"(A) subsection (b)(4) shall not apply with respect to any eligible institution that is a Historically Black College or University; and

"(B) any such institution that has a default rate in excess of 20 percent, and any eligible borrower seeking a loan for attendance at the institution, shall be subject to subsection (b)(3) to the same extent and in the same manner as eligible institutions and borrowers described in such subsection.

"(e) PAYOFF TO REDUCE RISK CATEGORY.—An institution may pay off the outstanding principal and interest owed by the borrowers of such institution who have defaulted on loans made under this subpart in order to reduce the risk category of the institution.

"SEC. 709. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOAN DEFAULT REDUCTION.

"(a) ESTABLISHMENT.—The Secretary shall establish, within the Division of Student Assistance of the Bureau of Health Professions, an office to be known as the Office for Health Education Assistance Loan Default Reduction (in this section referred to as the 'Office').

"(b) PURPOSE AND FUNCTIONS.—It shall be the purpose of the Office to achieve a reduction in

the number and amounts of defaults on loans guaranteed under this subpart. In carrying out such purpose the Office shall—

"(1) conduct analytical and evaluative studies concerning loans and loan defaults;

"(2) carry out activities designed to reduce loan defaults;

"(3) respond to special circumstances that may exist in the financial lending environment that may lead to loan defaults;

"(4) coordinate with other Federal entities that are involved with student loan programs, including—

"(A) with respect to the Department of Education, in the development of a single student loan application form, a single student loan deferment form, a single disability form, and a central student loan database; and

"(B) with respect to the Department of Justice, in the recovery of payments from health professionals who have defaulted on loans guaranteed under this subpart;

"(5) provide technical assistance to borrowers, lenders, holders, and institutions concerning deferments and collection activities; and

"(6) prepare and submit a report not later than March 31, 1993, and annually, thereafter, to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives concerning—

"(A) the default rates for each—

"(i) institution described in section 719(1) that is participating in the loan programs under this subpart;

"(ii) lender participating in the loan program under this subpart; and

"(iii) loan holder under this subpart;

"(B) the total amounts recovered pursuant to section 707(b) during the preceding fiscal year; and

"(C) a plan for improving the extent of such recoveries during the current fiscal year.

"(c) ADDITIONAL DUTIES.—In conjunction with the report submitted under subsection (b), the Office shall—

"(1) compile, and publish in the Federal Register, a list of the borrowers who are in default under this subpart; and

"(2) send the report and notices of default with respect to these borrowers to relevant Federal agencies and to schools, school associations, professional and specialty associations, State licensing boards, hospitals with which such borrowers may be associated, and any other relevant organizations.

"(d) ALLOCATION OF FUNDS FOR OFFICE.—In the case of amounts reserved under section 710(a)(2)(B) for obligation under this subsection, the Secretary may obligate the amounts for the purpose of administering the Office, including 7 full-time equivalent employment positions for such Office. With respect to such purpose, amounts made available under the preceding sentence are in addition to amounts made available to the Health Resources and Services Administration for program management for the fiscal year involved. With respect to such employment positions, the positions are in addition to the number of full-time equivalent employment positions that otherwise is authorized for the Department of Health and Human Services for the fiscal year involved.

"SEC. 710. INSURANCE ACCOUNT.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—There is hereby established a student loan insurance account (in this section referred to as the 'Account') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the collection and default of loans insured under this subpart by the Secretary.

"(2) FUNDING.—

"(A) Except as provided in subparagraph (B), all amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from the operations of the Secretary in connection with this section, shall be deposited in the Account.

"(B) With respect to amounts described in subparagraph (A) that are received by the Secretary for any of the fiscal years 1993 through 1996, the Secretary may, before depositing such amounts in the Account, reserve from the amounts each such fiscal year not more than $1,000,000 for obligation under section 709(d).

"(3) EXPENDITURES.—All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the Account.

"(b) CONTINGENT AUTHORITY FOR ISSUANCE OF NOTES OR OTHER OBLIGATIONS.—If at any time the moneys in the Account are insufficient to make payments in connection with the collection or default of any loan insured by the Secretary under this subpart, the Secretary of the Treasury may lend the Account such amounts as may be necessary to make the payments involved, subject to the Federal Credit Reform Act of 1990.

"SEC. 711. POWERS AND RESPONSIBILITIES OF SECRETARY.

"(a) IN GENERAL.—In the performance of, and with respect to, the functions, powers, and duties vested in the Secretary by this subpart, the Secretary is authorized as follows:

"(1) To prescribe such regulations as may be necessary to carry out the purposes of this subpart.

"(2) To sue and be sued in any district court of the United States. Such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the control of the Secretary. Nothing herein shall be constructed to except litigation arising out of activities under this subpart from the application of sections 517 and 547 of title 28 of the United States Code.

"(3) To include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payments of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved. Any term, condition, and covenant made pursuant to this paragraph or any other provisions of this subpart may be modified by the Secretary if the Secretary determines that modification is necessary to protect the financial interest of the United States.

"(4) Subject to the specific limitations in the subpart, to consent to the modification of any note or other instrument evidencing a loan which has been insured by him under this subpart (including modifications with respect to the rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision).

"(5) To enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

"(b) ANNUAL BUDGET; ACCOUNTS.—The Secretary shall, with respect to the financial operations arising by reason of this subpart—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to insurance under this subpart an integral set of accounts.

"SEC. 712. PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS.

"Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Administrator of the National Credit Union Administration, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans.

"SEC. 713. DETERMINATION OF ELIGIBLE STUDENTS.

"For purposes of determining eligible students under this part, in the case of a public school in a State that offers an accelerated, integrated program of study combining undergraduate premedical education and medical education leading to advanced entry, by contractual agreement, into an accredited four-year school of medicine which provides the remaining training leading to a degree of doctor of medicine, whenever in this part a provision refers to a student at a school of medicine, such reference shall include only a student enrolled in any of the last four years of such accelerated, integrated program of study.

"SEC. 714. REPAYMENT BY SECRETARY OF LOANS OF DECEASED OR DISABLED BORROWERS.

"If a borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the account established under section 710.

"SEC. 715. ADDITIONAL REQUIREMENTS FOR INSTITUTIONS AND LENDERS.

"(a) IN GENERAL.—Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a borrower who has received a loan insured under this subpart;

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart;

"(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart;

"(4) the collection of information from the borrower, lender, or eligible institution to assure compliance with the provisions of section 705;

"(5) the assessing of tuition or fees to borrowers in amounts that are the same or less than the amount of tuition and fees assessed to nonborrowers;

"(6) the submission, by the institution or the lender to the Office of Health Education Assistance Loan Default Reduction, of information concerning each loan made under this subpart, including the date when each such loan was originated, the date when each such loan is sold, the identity of the loan holder and information concerning a change in the borrower's status;

"(7) the withholding of services, including academic transcripts, financial aid transcripts,

and alumni services, by an institution from a borrower upon the default of such borrower of a loan under this subpart, except in case of a borrower who has filed for bankruptcy; and

"(8) the offering, by the lender to the borrower, of a variety of repayment options, including fixed-rate, graduated repayment with negative amortization permitted, and income dependent payments for a limited period followed by level monthly payments.

"(b) RECORDING BY INSTITUTION OF INFORMATION ON STUDENTS.—The Secretary shall require an eligible institution to record, and make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.

"(c) WORKSHOP FOR STUDENT BORROWERS.—Each participating eligible institution must have, at the beginning of each academic year, a workshop concerning the provisions of this subpart that all student borrowers shall be required to attend.

"SEC. 719. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or clinical psychology.

"(2) The term 'eligible lender' means an eligible institution that became a lender under this subpart prior to September 15, 1992, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, a pension fund approved by the Secretary for this purpose, or a nonprofit private entity designated by the State, regulated by the State, and approved by the Secretary.

"(3) The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"(4) The term 'school of allied health' means a program in a school of allied health (as defined in section 799) which leads to a masters' degree or a doctoral degree.

"(5)(A) The term 'default rate', in the case of an eligible entity, means the percentage constituted by the ratio of—

"(i) the principal amount of loans insured under this subpart—

"(I) that are made with respect to the entity and that enter repayment status after April 7, 1987; and

"(II) for which amounts have been paid under section 707(a) to insurance beneficiaries, exclusive of any loan for which amounts have been so paid as a result of the death or total and permanent disability of the borrower; exclusive of any loan for which the borrower begins payments to the Secretary on the loan pursuant to section 707(b) and maintains payments for 12 consecutive months in accordance with the agreement involved (with the loan subsequently being included or excluded, as the case may be, as amounts paid under section 707(a) according to whether further defaults occur and whether with respect to the default involved compliance with such requirement regarding 12 consecutive months occurs); and exclusive of any loan on which payments may not be recovered by reason of the obligation under the loan being discharged in bankruptcy under title 11, United States Code; to

"(ii) the total principal amount of loans insured under this subpart that are made with respect to the entity and that enter repayment status after April 7, 1987.

"(B) For purposes of subparagraph (A), a loan insured under this subpart shall be considered to have entered repayment status if the applicable period described in subparagraph (B) of section 705(a)(2) regarding the loan has expired (without regard to whether any period described in subparagraph (C) of such section is applicable regarding the loan).

"(C) For purposes of subparagraph (A), the term 'eligible entity' means an eligible institution, an eligible lender, or a holder, as the case may be.

"(D) For purposes of subparagraph (A), a loan is made with respect to an eligible entity if—

"(i) in the case of an eligible institution, the loan was made to students of the institution;

"(ii) in the case of an eligible lender, the loan was made by the lender; and

"(iii) in the case of a holder, the loan was purchased by the holder.

"SEC. 720. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For fiscal year 1993 and subsequent fiscal years, there are authorized to be appropriated such sums as may be necessary for the adequacy of the student loan insurance account under this subpart and for the purpose of administering this subpart.

"(b) AVAILABILITY OF SUMS.—Sums appropriated under subsection (a) shall remain available until expended.

"Subpart II—Federally-Supported Student Loan Funds

"SEC. 721. AGREEMENTS FOR OPERATION OF SCHOOL LOAN FUNDS.

"(a) FUND AGREEMENTS.—The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or other nonprofit school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine.

"(b) REQUIREMENTS.—Each agreement entered into under this section shall—

"(1) provide for establishment of a student loan fund by the school;

"(2) provide for deposit in the fund of—

"(A) the Federal capital contributions to the fund;

"(B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution;

"(C) collections of principal and interest on loans made from the fund;

"(D) collections pursuant to section 722(j); and

"(E) any other earnings of the fund;

"(3) provide that the fund shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

"(4) provide that loans may be made from such funds only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of pharmacy or an equivalent degree, doctor of podiatric medicine or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree;

"(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 722 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and

"(6) contain such other provisions as are necessary to protect the financial interests of the United States.

"(c) FAILURE OF SCHOOL TO COLLECT LOANS.—

"(1) IN GENERAL.—Any standard established by the Secretary by regulation for the collection by schools of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine of loans made pursuant to loan agreements under this subpart shall provide that the failure of any such school to collect such loans shall be measured in accordance with this subsection. This subsection may not be construed to require such schools to reimburse the student loan fund under this subpart for loans that became uncollectible prior to August 1985 or to penalize such schools with respect to such loans.

"(2) EXTENT OF FAILURE.—The measurement of a school's failure to collect loans made under this subpart shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of such school bears to the matured loans of such school.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'default' means the failure of a borrower of a loan made under this subpart to—

"(i) make an installment payment when due; or

"(ii) comply with any other term of the promissory note for such loan,

except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy or if the school reasonably concludes from written contracts with the borrower that the borrower intends to repay the loan.

"(B) The term 'defaulted principal amount outstanding' means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans—

"(i) repayable monthly and in default for at least 120 days; and

"(ii) repayable less frequently than monthly and in default for at least 180 days;.

"(C) The term 'grace period' means the period of one year beginning on the date on which the borrower ceases to pursue a full-time course of study at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine; and

"(D) The term 'matured loans' means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by such school to students who are—

"(i) enrolled in a full-time course of study at such school; or

"(ii) in their grace period.

"SEC. 722. LOAN PROVISIONS.

"(a) LIMITATION ON AMOUNT.—Loans from a student loan fund (established under an agreement with a school under section 721) may not exceed for any student for each school year (or its equivalent) the sum of—

"(1) the cost of tuition for such year at such school, and

"(2) $2,500.

"(b) TERMS AND CONDITIONS.—Subject to section 723, any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student—

"(1) who is in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of pharmacy or an equivalent degree, doctor of podiatric medicine or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree;

"(2) who, if pursuing a full-time course of study at the school leading to a degree of doctor

of medicine or doctor of osteopathy, is of exceptional financial need (as defined by regulations of the Secretary); and

"(3) who, if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section.

"(c) REPAYMENT; EXCLUSIONS FROM TEN-YEAR PERIOD.—Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatry, optometry, or veterinary medicine, excluding from such ten-year period—

"(1) all periods—

"(A) not in excess of three years of active duty performed by the borrower as a member of a uniformed service;

"(B) not in excess of three years during which the borrower serves as a volunteer under the Peace Corps Act;

"(C) during which the borrower participates in advanced professional training, including internships and residencies; and

"(D) during which the borrower is pursuing a full-time course of study at such a school; and

"(2) a period—

"(A) not in excess of two years during which a borrower who is a full-time student in such a school leaves the school, with the intent to return to such school as a full-time student, in order to engage in a full-time educational activity which is directly related to the health profession for which the borrower is preparing, as determined by the Secretary; or

"(B) not in excess of two years during which a borrower who is a graduate of such a school is a participant in a fellowship training program or a full-time educational activity which—

"(i) is directly related to the health profession for which such borrower prepared at such school, as determined by the Secretary; and

"(ii) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in advanced professional training described in paragraph (1)(C) or prior to the completion of such borrower's participation in such training.

"(d) CANCELLATION OF LIABILITY.—The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently, and totally disabled.

"(e) RATE OF INTEREST.—Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 5 percent per year.

"(f) SECURITY OR ENDORSEMENT.—Loans shall be made under this subpart without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

"(g) TRANSFERRING AND ASSIGNING LOANS.—No note or other evidence of a loan made under this subpart may be transferred or assigned by the school making the loan except that, if the borrowers transfer to another school participating in the program under this subpart, such note or other evidence of a loan may be transferred to such other school.

"(h) CHARGE WITH RESPECT TO INSURANCE FOR CERTAIN CANCELLATIONS.—Subject to regulations of the Secretary, a school may assess a charge with respect to loans made under this subpart to cover the costs of insuring against cancellation of liability under subsection (d).

"(i) CHARGE WITH RESPECT TO LATE PAYMENTS.—Subject to regulations of the Secretary, and in accordance with this section, a school shall assess a charge with respect to a loan made under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c), for any failure to file timely and satisfactory evidence of such entitlement. No such charge may be made if the payment of such installment or the filing of such evidence is made within 60 days after the date on which such installment or filing is due. The amount of any such charge may not exceed an amount equal to 6 percent of the amount of such installment. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(j) AUTHORITY OF SCHOOLS REGARDING RATE OF PAYMENT.—A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

"(k) AUTHORITY REGARDING REPAYMENTS BY SECRETARY.—Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a health professions student to enable him to study medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

"(1) failed to complete such studies leading to his first professional degree;

"(2) is in exceptionally needy circumstances;

"(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

"(4) has not resumed, or cannot reasonably be expected to resume, the study of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatric medicine, within two years following the date upon which he terminated such studies.

"(l) COLLECTION EFFORTS BY SECRETARY.—The Secretary is authorized to attempt to collect any loan which was made under this subpart, which is in default, and which was referred to the Secretary by a school with which the Secretary has an agreement under this subpart, on behalf of that school under such terms and conditions as the Secretary may prescribe (including reimbursement from the school's student loan fund for expenses the Secretary may reasonably incur in attempting collection), but only if the school has complied with such requirements as the Secretary may specify by regulation with respect to the collection of loans under this subpart. A loan so referred shall be treated as a debt subject to section 5514 of title 5, United States Code. Amounts collected shall be deposited in the school's student loan fund. Whenever the Secretary desires the institution of a civil action regarding any such loan, the Secretary shall refer the matter to the Attorney General for appropriate action.

"SEC. 723. MEDICAL SCHOOLS AND PRIMARY HEALTH CARE.

"(a) REQUIREMENTS FOR STUDENTS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, in the case of student loan funds established under section 721 by schools of medicine or osteopathic medicine, each agreement entered into under such section with such a school shall provide (in addition to the provisions required in subsection (b) of such section) that the school will make a loan from such fund to a student only if the student agrees—

"(A) to enter and complete a residency training program in primary health care not later than 4 years after the date on which the student graduates from such school; and

"(B) to practice in such care through the date on which the loan is repaid in full.

"(2) INAPPLICABILITY TO CERTAIN STUDENTS.—

"(A) The requirement established in paragraph (1) regarding the student loan fund of a school does not apply to a student if—

"(i) the first loan to the student from such fund is made before July 1, 1993; or

"(ii) the loan is made from—

"(I) a Federal capital contribution under section 721 that is made from amounts appropriated under section 724(f) (in this section referred to as an 'exempt Federal capital contribution'); or

"(II) a school contribution made under section 721 pursuant to such a Federal capital contribution (in this section referred to as an 'exempt school contribution').

"(B) A Federal capital contribution under section 721 may not be construed as being an exempt Federal capital contribution if the contribution was made from amounts appropriated before October 1, 1990. A school contribution under section 721 may not be construed as being an exempt school contribution if the contribution was made pursuant to a Federal capital contribution under such section that was made from amounts appropriated before such date.

"(3) NONCOMPLIANCE BY STUDENT.—Each agreement entered into with a student pursuant to paragraph (1) shall provide that, if the student fails to comply with the agreement—

"(A) the balance due on the loan involved will be immediately recomputed from the date of issuance at an interest rate of 12 percent per year, compounded annually; and

"(B) the recomputed balance will be paid not later than the expiration of the 3-year period beginning on the date on which the student fails to comply with the agreement.

"(b) REQUIREMENTS FOR SCHOOLS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, in the case of student loan funds established under section 721 by schools of medicine or osteopathic medicine, each agreement entered into under such section with such a school shall provide (in addition to the provisions required in subsection (b) of such section) that, for the 1-year period ending on June 30, 1994, and for the 1-year period ending on June 30 of each subsequent fiscal year, the school will meet not less than 1 of the conditions described in paragraph (2) with respect to graduates of the school whose date of graduation from the school occurred approximately 4 years before the end of the 1-year period involved.

"(2) DESCRIPTION OF CONDITIONS.—With respect to graduates described in paragraph (1) (in this paragraph referred to as 'designated graduates'), the conditions referred to in such paragraph for a school for a 1-year period are as follows:

"(A) Not less than 50 percent of designated graduates of the school meet the criterion of either being in a residency training program in primary health care, or being engaged in a practice in such care (having completed such a program).

"(B) Not less than 15 percent of the designated graduates of the school meet such criterion, and such percentage is not less than 5 percentage points above the percentage of such

graduates meeting such criterion for the preceding 1-year period.

"(C) In the case of schools of medicine or osteopathic medicine with student loans funds under section 721, the school involved is at or above the 75th percentile of such schools whose designated graduates meet such criterion.

"(3) DETERMINATIONS BY SECRETARY.—Not later than 90 days after the close of each 1-year period described in paragraph (1), the Secretary shall make a determination of whether the school involved has for such period complied with such paragraph and shall in writing inform the school of the determination. Such determination shall be made only after consideration of the report submitted to the Secretary by the school under paragraph (6).

"(4) NONCOMPLIANCE BY SCHOOL.—

"(A)(i) Subject to subparagraph (C), each agreement under section 721 with a school of medicine or osteopathic medicine shall provide that, if the school fails to comply with paragraph (1) for a 1-year period under such paragraph, the school—

"(I) will pay to the Secretary the amount applicable under subparagraph (B) for the period; and

"(II) will pay such amount not later than 90 days after the school is informed under paragraph (3) of the determination of the Secretary regarding such period.

"(ii) Any amount that a school is required to pay under clause (i) may be paid from the student loan fund of the school under section 721.

"(B) For purposes of subparagraph (A), the amount applicable for a school, subject to subparagraph (C), is—

"(i) for the 1-year period ending June 30, 1994, an amount equal to 10 percent of the income received during such period by the student loan fund of the school under section 721;

"(ii) for the 1-year period ending June 30, 1995, an amount equal to 20 percent of the income received during such period by the student loan fund; and

"(iii) for any subsequent 1-year period under paragraph (1), an amount equal to 30 percent of the income received during such period by the student loan fund.

"(C) In determining the amount of income that a student loan fund has received for purposes of subparagraph (B), the Secretary shall exclude any income derived from exempt contributions. Payments made to the Secretary under subparagraph (A) may not be made with such contributions or with income derived from such contributions.

"(5) EXPENDITURE OF PAYMENTS.—

"(A) Amounts paid to the Secretary under paragraph (4) shall be expended to make Federal capital contributions to student loan funds under section 721 of schools that are in compliance with paragraph (1).

"(B) A Federal capital contribution under section 721 may not be construed as being an exempt Federal capital contribution if the contribution is made from payments under subparagraph (A). A school contribution under such section may not be construed as being an exempt school contribution if the contribution is made pursuant to a Federal capital contribution from such payments.

"(6) REPORTS BY SCHOOLS.—Each agreement under section 721 with a school of medicine or osteopathic medicine shall provide that the school will submit to the Secretary a report for each 1-year period under paragraph (1) that provides such information as the Secretary determines to be necessary for carrying out this subsection. Each such report shall include statistics concerning the current training or practice status of all graduates of such school whose date of graduation from the school occurred approximately 4 years before the end of the 1-year period involved.

"(c) REPORTS BY SECRETARY.—The Secretary shall each fiscal year submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report regarding the administration of this section, including the extent of compliance with the requirements of this section, during the preceding fiscal year.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'exempt contributions' means exempt Federal capital contributions and exempt school contributions.

"(2) The term 'exempt Federal capital contribution' means a Federal capital contribution described in subclause (I) of subsection (a)(2)(A)(ii).

"(3) The term 'exempt school contribution' means a school contribution described in subclause (II) of subsection (a)(2)(A)(ii).

"(4) The term 'income', with respect to a student fund under section 721, means payments of principal and interest on any loan made from the fund, and any other earnings of the fund.

"(5) The term 'primary health care' means family medicine, general internal medicine, general pediatrics, preventive medicine, or osteopathic general practice.

SEC. 724. INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

"(a) FUND AGREEMENTS REGARDING CERTAIN AMOUNTS.—With respect to amounts appropriated under subsection (f), each agreement entered into under section 721 with a school shall provide (in addition to the provisions required in subsection (b) of such section) that—

"(1) any Federal capital contribution made to the student loan fund of the school from such amounts, together with the school contribution appropriate under subsection (b)(2)(B) of such section to the amount of the Federal capital contribution, will be utilized only for the purpose of—

"(A) making loans to individuals from disadvantaged backgrounds; and

"(B) the costs of the collection of the loans and interest on the loans; and

"(2) collections of principal and interest on loans made pursuant to paragraph (1), and any other earnings of the student loan fund attributable to amounts that are in the fund pursuant to such paragraph, will be utilized only for the purpose described in such paragraph.

"(b) MINIMUM QUALIFICATIONS FOR SCHOOLS.—The Secretary may not make a Federal capital contribution for purposes of subsection (a) for a fiscal year unless the health professions school involved—

"(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(2) is carrying out a program for recruiting and retaining minority faculty.

"(c) CERTAIN AGREEMENTS REGARDING EDUCATION OF STUDENTS; DATE CERTAIN FOR COMPLIANCE.—The Secretary may not make a Federal capital contribution for purposes of subsection (a) for a fiscal year unless the health professions school involved agrees—

"(1) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(2) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(3) with respect to public or nonprofit private secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such individuals into the health professions;

"(4) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(5) to be carrying out each of the activities specified in any of paragraphs (1) through (4) by not later than 1 year after the date on which the first Federal capital contribution is made to the school for purposes of subsection (a); and

"(6) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b), throughout the period during which the student loan fund established pursuant to section 721(b) is in operation.

"(d) AVAILABILITY OF OTHER AMOUNTS.—With respect to Federal capital contributions to student loan funds under agreements under section 721(b), any such contributions made before October 1, 1990, together with the school contributions appropriate under paragraph (2)(B) of such section to the amount of the Federal capital contributions, may be utilized for the purpose of making loans to individuals from disadvantaged backgrounds, subject to section 723(a)(2)(B).

"(e) DEFINITION.—For purposes of this section, the term 'disadvantaged', with respect to an individual, shall be defined by the Secretary.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—With respect to making Federal capital contributions to student loan funds for purposes of subsection (a), there is authorized to be appropriated for such contributions $15,000,000 for fiscal year 1993.

"(2) SPECIAL CONSIDERATION FOR CERTAIN SCHOOLS.—In making Federal capital contributions to student loan funds for purposes of subsection (a), the Secretary shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

"SEC. 725. ADMINISTRATIVE PROVISIONS.

"The Secretary may agree to modifications of agreements or loans made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.

"SEC. 726. PROVISION BY SCHOOLS OF INFORMATION TO STUDENTS.

"(a) IN GENERAL.—With respect to loans made by a school under this subpart after June 30, 1986, each school, in order to carry out the provisions of sections 721 and 722, shall, at any time such school makes such a loan to a student under this subpart, provide thorough and adequate loan information on loans made under this subpart to the student. The loan information required to be provided to the student by this subsection shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by the student;

"(2) the terms under which repayment of the loan will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be paid by the borrower and the minimum amount of the required monthly payment.

"(5) the amount of any other fees charged to the borrower by the lender;

"(6) any options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(7) a definition of default on the loan and a specification of the consequences which will re-

sult to the borrower if the borrower defaults, including a description of any arrangements which may be made with credit bureau organizations;

"(8) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(9) a description of the actions that may be taken by the Federal Government to collect the loan, including a description of the type of information concerning the borrower that the Federal Government may disclose to (A) officers, employees, or agents of the Department of Health and Human Services, (B) officers, employees, or agents of schools with which the Secretary has an agreement under this subpart, or (C) any other person involved in the collection of a loan under this subpart.

"(b) STATEMENT REGARDING LOAN.—Each school shall, immediately prior to the graduation from such school of a student who receives a loan under this subpart after June 30, 1986, provide such student with a statement specifying—

"(1) each amount borrowed by the student under this subpart;

"(2) the total amount borrowed by the student under this subpart; and

"(3) a schedule for the repayment of the amounts borrowed under this subpart, including the number, amount, and frequency of payments to be made.

"SEC. 727. PROCEDURES FOR APPEAL OF TERMINATION OF AGREEMENTS.

"In any case in which the Secretary intends to terminate an agreement with a school under this subpart, the Secretary shall provide the school with a written notice specifying such intention and stating that the school may request a formal hearing with respect to such termination. If the school requests such a hearing within 30 days after the receipt of such notice, the Secretary shall provide such school with a hearing conducted by an administrative law judge.

"SEC. 728. DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

"(a) DISTRIBUTION AFTER TERMINATION OF FUND.—If a school terminates a loan fund established under an agreement pursuant to section 721(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund on the date of termination of the fund as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 721(b)(2)(A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 721(b)(2)(B).

"(2) The remainder of such balance shall be paid to the school.

"(b) PAYMENT OF PROPORTIONATE SHARE TO SECRETARY.—If a capital distribution is made under subsection (a), the school involved shall, after the capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established pursuant to section 721(b) as was determined by the Secretary under subsection (a).

"SEC. 735. GENERAL PROVISIONS.

"(a) DATE CERTAIN FOR APPLICATIONS.—The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions.

"(b) CONTINGENT REDUCTION IN ALLOTMENTS.—If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: the amount requested in its application; or an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in such school during such fiscal year bears to the estimated total number of students in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallotted in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

"(c) ALLOTMENT OF EXCESS FUNDS.—Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this subpart.

"(d) PAYMENT OF INSTALLMENTS TO SCHOOLS.—Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

"(e) DISPOSITION OF FUNDS RETURNED TO SECRETARY.—

"(1) EXPENDITURE FOR FEDERAL CAPITAL CONTRIBUTIONS.—Subject to section 723(b)(5), any amounts from student loan funds under section 721 that are returned to the Secretary by health professions schools shall be expended to make Federal capital contributions to such funds.

"(2) DATE CERTAIN FOR CONTRIBUTIONS.—Amounts described in paragraph (1) that are returned to the Secretary before the fourth quarter of a fiscal year shall be obligated before the end of such fiscal year, and may not be obligated before the fourth quarter. For purposes of the preceding sentence, amounts returned to the Secretary during the last quarter of a fiscal year are deemed to have been returned during the first three quarters of the succeeding fiscal year.

"(3) PREFERENCE IN MAKING CONTRIBUTIONS.—In making Federal capital contributions to student loans funds under section 721 for a fiscal year from amounts described in paragraph (1), the Secretary shall give preference to health professions schools of the same disciplines as the health professions schools returning such amounts for the period during which the amounts expended for such contributions were received by the Secretary. Any such amounts that, prior to being so returned, were available only for the purpose of loans under this subpart to individuals from disadvantaged backgrounds shall be available only for such purpose.

"PART B—STUDENTS FROM DISADVANTAGED BACKGROUNDS

"SEC. 736. SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

"(a) IN GENERAL.—The Secretary shall make grants to public and nonprofit private schools of medicine, osteopathic medicine, and dentistry for scholarships to be awarded by the schools to full-time students thereof who are of exceptional financial need, subject to section 795 (relating to residency training and practice in primary health care).

"(b) REQUIREMENTS REGARDING SCHOLARSHIPS.—

"(1) ACCEPTANCE FOR FULL-TIME ENROLLMENT.—Scholarships may be awarded by a school from a grant under subsection (a) only to individuals who have been accepted by it for enrollment as full-time students.

"(2) AUTHORIZED EXPENDITURES.—A scholarship provided to a student for a school year under a grant under subsection (a) shall consist of payment to, or (in accordance with paragraph (4)) on behalf of, the student of an amount (except as provided in section 798(c)) equivalent to the amount of—

"(A) the tuition of the student in such school year; and

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such year.

"(3) AUTHORITY REGARDING PAYMENTS TO EDUCATIONAL INSTITUTION.—The Secretary may contract with an educational institution in which is enrolled a student who has received a scholarship with a grant under subsection (a) for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (2). Payment to such an educational institution may be made without regard to section 3324 of title 31, United States Code.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there is authorized to be appropriated $11,000,000 for fiscal year 1993.

"SEC. 737. SCHOLARSHIPS GENERALLY; CERTAIN OTHER PURPOSES.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Subject to subsection (e), the Secretary may make grants to health professions schools for the purpose of assisting such schools in providing scholarships to individuals described in paragraph (2).

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals who—

"(A) are from disadvantaged backgrounds; and

"(B) are enrolled (or accepted for enrollment) as full-time students in such schools.

"(2) HEALTH PROFESSIONS SCHOOLS.—For purposes of this section, the term 'health professions schools' means schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or allied health, or schools offering graduate programs in clinical psychology.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health professions school—

"(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(2) is carrying out a program for recruiting and retaining minority faculty.

"(c) PREFERENCES IN PROVIDING SCHOLARSHIPS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees that, in providing scholarships pursuant to the grant, the school will give preference to students—

"(1) who are from disadvantaged backgrounds; and

"(2) for whom the costs of attending the school would constitute a severe financial hardship.

"(d) USE OF SCHOLARSHIP.—A scholarship provided pursuant to subsection (a) for attendance at a health professions school—

"(1) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in such attendance; and

"(2) may not, for any year of such attendance for which the scholarship is provided, provide an amount exceeding the total amount required for the year for the expenses specified in paragraph (1).

"(e) PROVISIONS REGARDING PURPOSES OTHER THAN SCHOLARSHIPS.—

"(1) AUTHORITY REGARDING ASSISTANCE FOR UNDERGRADUATES.—With respect to undergraduates who have demonstrated a commitment to pursuing a career in the health professions, a health professions school may expend not more than 25 percent of a grant under subsection (a) for the purpose of providing financial assistance to such undergraduates in order to facilitate the completion of the educational requirements for such careers.

"(2) REQUIRED ACTIVITIES OF SCHOOL.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such students into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out the activities specified in subparagraphs (A) through (D) by not later than 1 year after the date on which a grant under subsection (a) is first made to the school; and

"(F) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b), throughout the period during which the school is receiving a grant under subsection (a).

"(3) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under subsection (a) for a fiscal year unless the health professions school involved agrees that the grant will not be expended to carry out the activities specified in paragraph (1) or (2) of subsection (b), or in any of subparagraphs (A) through (D) of paragraph (2) of this subsection.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) DEFINITION.—For purposes of this section, the term 'school of nursing' has the meaning given such term in section 853.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 1993.

"(2) ALLOCATIONS BY SECRETARY.—In making grants under subsection (a), the Secretary—

"(A) shall, of the amounts appropriated under paragraph (1), make available 30 percent for such grants to schools of nursing; and

"(B) shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

"SEC. 738. LOAN REPAYMENTS AND FELLOWSHIPS REGARDING FACULTY POSITIONS.

"(a) LOAN REPAYMENTS.—

"(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of entering into contracts with individuals described in subsection (b) under which the individuals agree to serve as members of the faculties of schools described in paragraph (3) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals from disadvantaged backgrounds who—

"(A) have a degree in medicine, osteopathic medicine, dentistry, or another health profession;

"(B) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(C) are enrolled as a full-time student—

"(i) in an accredited (as determined by the Secretary) school described in paragraph (3); and

"(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

"(3) ELIGIBLE HEALTH PROFESSIONS SCHOOLS.—The schools described in this paragraph are schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in clinical psychology.

"(4) ADDITIONAL LIMITATION ON AMOUNT OF REPAYMENTS.—Payments made under this subsection regarding the educational loans of an individual may not, for any year for which the payments are made, exceed an amount equal to 20 percent of the outstanding principal and interest on the loans.

"(5) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under paragraph (1) unless—

"(A) the individual involved has entered into a contract with a school described in paragraph (3) to serve as a member of the faculty of the school for not less than 2 years, and the individual has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for a contract under paragraph (1); and

"(B) the contract referred to in subparagraph (A) provides that—

"(i) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year; and

"(ii) the payments made by the school pursuant to clause (i) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty.

"(6) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in paragraph (5)(B) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved. If the Secretary grants such a waiver, paragraph (4) shall not apply with respect to the individual involved.

"(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338B, 338C, and 338E shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

"(b) FELLOWSHIPS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private nonprofit health or educational entities of the type described in section 799, to assist such schools in increasing the number of underrepresented minority faculty members at such schools.

"(2) APPLICATIONS.—To be eligible to receive a grant or contract under this subsection, a school shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that—

"(A) amounts received under such a grant or contract will be used to award a fellowship to an individual only if—

"(i) the individual has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the individual submits a request for the fellowship; and

"(ii) the individual meets the requirements of paragraphs (3) and (4); and

"(B) each fellowship awarded pursuant to the grant or contract will include a stipend in an amount not exceeding 50 percent of the regular salary of a similar faculty member, or $30,000, whichever is less.

"(3) ELIGIBILITY.—To be eligible to receive a grant or contract under paragraph (1), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

"(A) identify, recruit and select individuals from underrepresented minorities in health professions who have the potential for teaching, administration, or conducting research at a health professions institution;

"(B) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

"(C) provide services designed to assist such individuals in their preparation for an academic career, including the provision of mentors; and

"(D) provide health services to rural or medically underserved populations.

"(4) REQUIREMENTS.—To be eligible to receive a grant or contract under paragraph (1) an applicant shall—

"(A) provide an assurance that such applicant will make available (directly through cash donations) $1 for every $1 of Federal funds received under this section for the fellowship;

"(B) provide an assurance that institutional support will be provided for the individual for a second year at a level that is not less than the total amount of Federal and institutional funds provided in the year in which the grant or contract was awarded;

"(C) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

"(D) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master's or doctoral degree) and special skills necessary to enable such individual to teach and practice.

"(5) DEFINITION.—For purposes of this subsection, the term 'minority' means an individual from a racial or ethnic group that is underrepresented in the health professions.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $4,000,000 for fiscal year 1993.

"SEC. 739. CENTERS OF EXCELLENCE.

"(a) IN GENERAL.—The Secretary shall make grants to health professions schools described in subsection (c) for the purpose of assisting the schools in supporting programs of excellence in health professions education for minority individuals.

"(b) REQUIRED USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees to expend the grant—

"(1) to establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

"(2) to establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

"(3) to improve the capacity of such school to train, recruit, and retain minority faculty;

"(4) with respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and

"(5) to facilitate faculty and student research on health issues particularly affecting minority groups.

"(c) CENTERS OF EXCELLENCE.—

"(1) IN GENERAL.—

"(A) The health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraph (B), and that—

"(i) meet each of the conditions specified in paragraph (2)(A);

"(ii) meet each of the conditions specified in paragraph (3);

"(iii) meet each of the conditions specified in paragraph (4); or

"(iv) meet each of the conditions specified in paragraph (5).

"(B) The conditions specified in this subparagraph are that a health professions school—

"(i) has a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

"(ii) has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

"(iii) has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals and encouraging minority students of secondary educational institutions to attend the health professions school; and

"(iv) has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

"(C) In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

"(2) CENTERS OF EXCELLENCE AT CERTAIN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—

"(A) The conditions specified in this subparagraph are that a health professions school—

"(i) is a school described in section 799(1); and

"(ii) received a contract under section 788B for fiscal year 1987, as such section was in effect for such fiscal year.

"(B) In addition to the purposes described in subsection (b), a grant under subsection (a) to a health professions school meeting the conditions described in subparagraph (A) may be expended—

"(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals; and

"(ii) to provide improved access to the library and informational resources of the school.

"(3) HISPANIC CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that—

"(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) applies to the health professions school involved; and

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Hispanic individuals.

"(4) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Subject to subsection (e), the conditions specified in this paragraph are that—

"(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) applies to the health professions school involved;

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Native Americans; and

"(C) the health professions school agree, as a condition of receiving a grant under subsection (a), that—

"(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

"(I) to identify Native American students of the institution who are interested in a career in the health profession or professions involved; and

"(II) to facilitate the educational preparation of such students to enter the health professions school; and

"(ii) the health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to clause (i) and will assist Native American students regarding the completion of the educational requirements for a degree from the health professions school.

"(5) OTHER CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that a health professions school has an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools.

"(d) DESIGNATION AS CENTER OF EXCELLENCE.—

"(1) IN GENERAL.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in paragraph (2) or (5) of subsection (c) shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Minority Health Professions Education.

"(2) HISPANIC CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(3) shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

"(3) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(4) shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education. Any consortium receiving such a grant pursuant to subsection (e) shall, for purposes of this section, be so designated.

"(e) AUTHORITY REGARDING NATIVE AMERICAN CENTERS OF EXCELLENCE.—

"(1) AUTHORITY FOR COLLECTIVELY MEETING RELEVANT REQUIREMENTS.—With respect to meeting the conditions specified in subsection (c)(4), the Secretary may make a grant under subsection (a) to any school of medicine, osteopathic medicine, dentistry, or pharmacy that has in accordance with paragraph (2) formed a consortium of schools that meets such conditions (without regard to whether the schools of the consortium individually meet such conditions).

"(2) REQUIREMENTS REGARDING CONSORTIUM.—A consortium of schools has been formed in accordance with this paragraph if—

"(A) the consortium consists of a school seeking a grant pursuant to paragraph (1) and 1 or more schools of medicine, osteopathic medicine, dentistry, pharmacy, nursing, allied health, or public health;

"(B) the schools of the consortium have entered into an agreement for the allocation of such grant among the schools;

"(C) each of the schools agrees to expend the grant in accordance with this section; and

"(D) each of the schools of the consortium—

"(i) is part of the same institution of higher education as the school seeking the grant; or

"(ii) is located not farther than 50 miles from the school seeking the grant.

"(f) DURATION AND AMOUNT OF GRANT.—

"(1) DURATION.—The period during which payments are made under a grant under subsection (a) may not exceed 3 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

"(2) AMOUNT.—A grant under subsection (a) for a fiscal year may not be made in an amount that is less than $500,000.

"(g) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to a health professions school for any fiscal year unless the school agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the school for the fiscal year preceding the fiscal year for which the school receives such a grant.

"(2) USE OF FEDERAL FUNDS.—With respect to any Federal amounts received by a health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless the school agrees that the school will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

"(h) DEFINITIONS.—For purposes of this section:

"(1)(A) The term 'health professions school' means, except as provided in subparagraph (B), a school of medicine, a school of osteopathic medicine, a school of dentistry, or a school of pharmacy.

"(B) The definition established in subparagraph (A) shall not apply to the use of the term 'health professions school' for purposes of subsection (c)(2).

"(2) The term 'program of excellence' means any program carried out by a health professions school with a grant made under subsection (a), if the program is for purposes for which the

school involved is authorized in subsection (b) or (c) to expend the grant.

"(3) The term 'Native Americans' means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

"(i) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for fiscal year 1993.

"(2) ALLOCATIONS BY SECRETARY.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available $12,000,000 for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (2)(A) of subsection (c).

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A), the Secretary shall make available 60 percent for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e)).

"(C) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A), the Secretary shall make available 40 percent for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (5) of subsection (c).

"SEC. 740. EDUCATIONAL ASSISTANCE REGARDING UNDERGRADUATES.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, and podiatric medicine, public and nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) AUTHORIZED EXPENDITURES.—A grant or contract under paragraph (1) may be used by the health or educational entity to meet the cost of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession,

"(B) facilitating the entry of such individuals into such a school,

"(C) providing counseling or other services designed to assist such individuals to complete successfully their education at such a school,

"(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education,

"(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program,

"(F) paying such scholarships as the Secretary may determine for such individuals for any period of health professions education at a school of medicine, osteopathic medicine, or dentistry,

"(G) paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses) at any school described in subsection (a)(1), except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend shall be in an amount of $40 per day (notwithstanding any other provision of law regarding the amount of stipends).

The term 'regular course of education of such a school' as used in subparagraph (D) includes a graduate program in clinical psychology.

"(b) REQUIREMENTS REGARDING ENROLLMENT; PRIORITY IN MAKING GRANTS.—

"(1) INCREASED ENROLLMENT OF INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatric medicine and public and nonprofit schools that offer graduate programs in clinical psychology that receive a grant under subsection (a) shall, during a period of 3 years commencing on the date of the award of the grant, increase their first year enrollments of individuals from disadvantaged backgrounds by at least 20 percent over enrollments in the base year 1987.

"(2) CONDITIONS FOR SCHOOLS TO RECEIVE PRIORITY.—The Secretary shall give priority for funding, in years subsequent to the expiration of the 3-year period described in paragraph (1)—

"(A) to schools that attain such increase in their first year enrollment by the end of such 3-year period, and

"(B) to schools that attain a 20 percent increase over such base year enrollment.

"(3) APPLICABILITY OF CERTAIN CONDITION FOR PRIORITY.—The requirement for at least a 20 percent increase in such enrollment shall apply only to those schools referred to in paragraph (1) that have a proportionate enrollment of such individuals from disadvantaged backgrounds that is less than 200 percent of the national average percentage of such individuals in all schools of each health professions discipline.

"(4) DETERMINATION OF ENROLLMENT.—Determination of both first year and total enrollment of such individuals shall be made by the Secretary in accordance with section 792.

"(c) EQUITABLE ALLOCATION OF FINANCIAL ASSISTANCE.—The Secretary shall ensure that services and activities under subsection (a) are equitably allocated among the various racial and ethnic populations.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of grants and contracts under subsection (a)(1), there is authorized to be appropriated $31,500,000 for fiscal year 1993.

"(2) ALLOCATIONS.—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary shall obligate amounts in accordance with the following:

"(A) 70 percent shall be obligated for grants or contracts to institutions of higher education.

"(B) 20 percent shall be obligated for scholarships under subsection (a)(2)(F) to individuals of exceptional financial need (as defined by the Secretary under section 736) who are students at schools of medicine, osteopathic medicine, or dentistry. The provision of such scholarships to such individuals shall be subject to section 795 (relating to residency training and practice in primary health care). Such scholarships shall be administered and awarded in the same manner and subject to the same requirements as scholarships under section 736.

"(C) 10 percent shall be obligated for community-based programs.

"(D) Not more than 5 percent may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

"PART C—TRAINING IN PRIMARY HEALTH CARE

"SEC. 746. AREA HEALTH EDUCATION CENTER PROGRAMS.

"(a) AUTHORITY FOR PROVISION OF FINANCIAL ASSISTANCE.—

"(1) ASSISTANCE FOR PLANNING, DEVELOPMENT, AND OPERATION OF PROGRAMS.—

"(A) The Secretary shall provide financial assistance to schools of medicine and osteopathic medicine for the planning, development, and operation of area health education center programs.

"(B)(i) Subject to clause (ii), the period during which payments are made from an award under subparagraph (A) may not exceed 12 years. The provision of the payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed as establishing a limitation on the number of awards under such subparagraph that may be made to the school involved.

"(ii) In the case of an area health education center planned, developed, or operated with an award under subparagraph (A), the period during which the award is expended for the center may not exceed 6 years.

"(2) ASSISTANCE FOR CERTAIN PROJECTS OF EXISTING PROGRAMS.—

"(A) The Secretary shall provide financial assistance to schools of medicine and osteopathic medicine—

"(i) which have previously received Federal financial assistance for an area health education center program under section 802 of the Health Professionals Educational Assistance Act of 1976 in fiscal year 1979 or under paragraph (1), or

"(ii) which are receiving assistance under paragraph (1),

to carry out projects described in subparagraph (B) through area health education centers for which Federal financial assistance was provided under paragraph (1) and which are no longer eligible to receive such assistance.

"(B) Projects for which assistance may be provided under subparagraph (A) are—

"(i) projects to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system;

"(ii) projects to encourage the regionalization of educational responsibilities of the health professions schools; and

"(iii) projects designed to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps Scholarship Program to effectively provide health services in health professional shortage areas.

"(C) In the case of the requirement established in section 3804(e)(1) of part 57 of title 42, Code of Federal Regulations (42 CFR 57.3804(e)(1)) (relating to the location of area health education centers), the Secretary shall waive such requirement with respect to an area health education center having, at the time of initial application for financial assistance under this section or under a previous authorizing law, an operating program supported by both appropriations of a State legislature and local resources.

"(3) ASSISTANCE FOR OPERATION OF MODEL PROGRAMS.—

"(A) In the case of any school of medicine or osteopathic medicine that is operating an area health education center program and that is not receiving financial assistance under paragraph (1), the Secretary may provide financial assistance to the school for the costs of operating the program, and for carrying out activities described in subparagraph (E), if the school makes the agreements described in subparagraphs (B) through (D).

"(B)(i) For purposes of subparagraph (A), the agreement described in this subparagraph for a school is that, with respect to the costs of operating the area health education center program of the school, the school will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount that is not less than 50 percent of such costs.

"(ii) Amounts provided by the Federal Government may not be included in determining the amount of non-Federal contributions in cash made for purposes of the requirement established in clause (i).

"(C) For purposes of subparagraph (A), the agreement described in this subparagraph for a school is that, in operating the area health education program of the school, the school will—

"(i) coordinate the activities of the program with the activities of any office of rural health established by the State or States in which the program is operating;

"(ii) conduct health professions education and training activities consistent with national and State priorities in the area served by the program in coordination with the National Health Service Corps, entities receiving funds under section 329 or 330, and public health departments; and

"(iii) cooperate with any entities that are in operation in the area served by the program and that receive Federal or State funds to carry out activities regarding the recruitment and retention of health care providers.

"(D) For purposes of subparagraph (A), the agreement described in this subparagraph for a school is that, with respect to the costs of operating the area health education center program of the school, the school will maintain expenditures of non-Federal amounts for such costs at a level that is not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school receives an award under subparagraph (A).

"(E) A school may expend not more than 10 percent of an award under subparagraph (A) for demonstration projects for any or all of the following purposes:

"(i) The establishment of computer-based information programs or telecommunication networks that will link health science centers and service delivery sites.

"(ii) The provision of disease specific educational programs for health providers and students in areas of concern to the United States.

"(iii) The development of information dissemination models to make available new information and technologies emerging from biological research centers to the practicing medical community.

"(iv) The institution of new minority recruitment and retention programs, targeted to improved service delivery in areas the program determines to be medically underserved.

"(v) The establishment of programs to place physicians from health manpower shortage areas into similar areas to encourage retention of physicians and to provide flexibility to States in filling positions in health professional shortage areas.

"(vi) The establishment or improvement of education and training programs for State emergency medical systems.

"(vii) The establishment of programs to train health care providers in the identification and referral of cases of domestic violence.

"(F) The aggregate amount of awards provided under subparagraph (A) to schools in a State for a fiscal year may not exceed the lesser of—

"(i) $2,000,000; and

"(ii) an amount equal to the product of $250,000 and the aggregate number of area health education centers operated in the State by the schools.

"(b) STRUCTURE OF PROGRAMS.—

"(1) IN GENERAL.—An area health education center program shall be a cooperative program of one or more medical (M.D. and D.O.) schools and one or more nonprofit private or public area health education centers.

"(2) CERTAIN REQUIREMENTS.—With respect to an area health education center program, a school may not receive an award under paragraph (1) of subsection (a) for operational expenses, or an award under paragraph (2) or (3) of such subsection, unless the program—

"(A) maintains preceptorship educational experiences for health science students;

"(B) maintains community-based primary care residency programs or is affiliated with such programs;

"(C) maintains continuing education programs for health professionals or coordinates with such programs;

"(D) maintains learning resource and dissemination systems for information identification and retrieval;

"(E) has agreements with community-based organizations for the delivery of education and training in the health professions;

"(F) is involved in the training of health professionals (including nurses and allied health professionals), except to the extent inconsistent with the law of the State in which the training is conducted; and

"(G) carries out recruitment programs for the health science professions, or programs for health-career awareness, among minority and other elementary or secondary students from areas the program has determined to be medically underserved.

"(c) REQUIREMENTS FOR SCHOOLS.—Each medical (M.D. and D.O.) school participating in an area health education center program shall—

"(1) provide for the active participation in such program by individuals who are associated with the

administration of the school and each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

"(2) provide that no less than 10 percent of all undergraduate medical (M.D. and D.O.) clinical education of the school will be conducted in an area health education center and at locations under the sponsorship of such center;

"(3) be responsible for, or conduct, a program for the training of physician assistants (as defined in section 799) or nurse practitioners (as defined under section 822) which gives special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center of the program; and

"(4) provide for the active participation of at least 2 schools or programs of other health professions (including a school of dentistry and a graduate program of mental health practice if there are ones affiliated with the university with which the school of medicine or osteopathic medicine is affiliated) in the educational program conducted in the area served by the area health education center.

The requirement of paragraph (3) shall not apply to a medical (M.D. and D.O.) school participating in an area health education center program if another such school participating in the same program meets the requirement of that paragraph.

"(d) REQUIREMENTS FOR CENTERS.—

"(1) SERVICE AREA.—Each area health education center shall specifically designate a geographic area in which it will serve, or shall specifically designate a medically underserved population it will serve (such area or population with respect to such center in this section referred to as 'the area served by the center'), which area or population is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.

"(2) OTHER REQUIREMENTS.—Each area health education center shall—

"(A) provide for or conduct training in health education services, including education in nutrition evaluation and counseling, in the area served by the center;

"(B) assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet such needs;

"(C) provide for or conduct a rotating osteopathic internship or a medical residency training program in family medicine, general internal medicine, or general pediatrics in which no fewer than four individuals are enrolled in first-year positions in such program;

"(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals (including allied health personnel) practicing within the area served by the center;

"(E) provide continuing medical education and other educational support services to the National Health Service Corps members serving within the area served by the center;

"(F) conduct interdisciplinary training and practice involving physicians and other health personnel including, where practicable, physician assistants, nurse practitioners, and nurse midwives;

"(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

"(H) have an advisory board of which at least 75 percent of the members shall be individuals, including both health service providers and consumers, from the area served by the center.

Any area health education center which is participating in an area health education center program in which another center has a medical residency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

"(e) CERTAIN PROVISIONS REGARDING FUNDING.—

"(1) PROGRAMS.—Subject to paragraph (2), in providing financial assistance under this section to a school, the Secretary shall assure that—

"(A) at least 75 percent of the total funds provided to the school are expended by an area health education center program in the area health education centers, and that the school enters into an agreement with each of such centers for purposes of specifying the allocation of such 75 percent;

"(B) with respect to the operating costs of the area health education program of the school, non-Federal contributions for such costs are made in an amount that is not less than 25 percent of such costs; and

"(C) no award provides funds solely for the planning or development of such a program for a period exceeding two years.

The Secretary may vest in entities which have received financial assistance under section 802 of the Health Professions Educational Assistance Act of 1976, section 774 as in effect before October 1, 1977, or under subsection (a) of this section for area health education centers programs title to any property acquired on behalf of the United States by that entity (or furnished to that entity by the United States) under that award.

"(2) CENTERS.—With respect to the period during which an area health education center is

planned, developed or operated pursuant to an award under subsection (a)(1), not more than 55 percent of the total amounts expended for the center in any fifth or sixth year of such period may be provided by the Secretary, subject to paragraph (3).

"(3) APPLICABILITY OF PROVISION REGARDING CENTERS.—Paragraph (2) shall apply only in the case of an area health education center program for which the initial award under subsection (a)(1) is provided on or after the date of the enactment of the Health Professions Education Extension Amendments of 1992.

"(f) HEALTH EDUCATION AND TRAINING CENTERS.—

"(1) IN GENERAL.—The Secretary shall provide financial assistance to schools of medicine and osteopathic medicine for the purpose of planning, developing, establishing, maintaining, and operating health education and training centers—

"(A) to improve the supply, distribution, quality, and efficiency of personnel providing health services in the State of Florida or (in the United States) along the border between the United States and Mexico;

"(B) to improve the supply, distribution, quality, and efficiency of personnel providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic individuals, that has demonstrated serious unmet health care needs; and

"(C) to encourage health promotion and disease prevention through public education in the areas described.

"(2) ARRANGEMENTS WITH OTHER ENTITIES.—The Secretary may not provide financial assistance under paragraph (1) unless the applicant for such assistance agrees, in carrying out the purpose described in such paragraph, to enter into arrangements with one or more public or nonprofit private entities in the State that have expertise in providing health education to the public.

"(3) SERVICE AREA.—The Secretary shall, after consultation with health education and training centers, designate the geographic area in which each such center will carry out the purpose described in paragraph (1). The service area of such a center shall be located entirely within the State in which the center is located. Each border health education and training center shall be located in a county (or other political subdivision) of the State in close proximity to the border between the United States and Mexico.

"(4) ADVISORY GROUP; OPERATIONAL PLAN.—The Secretary may not provide financial assistance under paragraph (1) unless the applicant for such assistance agrees—

"(A) to establish an advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

"(B) after consultation with such advisory group, to develop a plan for carrying out the purpose described in paragraph (1) in the service area;

"(C) to enter into contracts, as needed, with other institutions or entities to carry out such plan; and

"(D) to be responsible for the evaluation of the program.

"(5) CERTAIN ACTIVITIES.—The Secretary may not provide financial assistance under paragraph (1) unless the applicant for such assistance agrees—

"(A) to evaluate the specific service needs for health care personnel in the service area;

"(B) to assist in the planning, development, and conduct of training programs to meet the needs identified pursuant to subparagraph (A);

"(C) to conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

"(D) to conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

"(E) to conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

"(F) to support health career educational opportunities designed to provide students residing in the service area with counseling, education, and training in the health professions;

"(G) with respect to border health education and training centers, to assist in coordinating its activities and programs carried out pursuant to paragraph (1)(A) with any similar programs and activities carried out in Mexico along the border between the United States and Mexico;

"(H) to make available technical assistance in the service area in the aspects of health care organization, financing and delivery; and

"(I) in the case of any school of public health located in the service area of the health education and training center operated with the assistance, to permit any such school to participate in the program of the center if the school makes a request to so participate.

"(6) ALLOCATION OF FUNDS BY CENTERS.—In carrying out this subsection, the Secretary shall ensure that—

"(A) not less than 75 percent of the total funds provided to a school or schools of medicine or osteopathic medicine will be expended in the development and operation of the health education and training center in the service area of such program;

"(B) to the maximum extent feasible, the school of medicine or osteopathic medicine will obtain from nongovernmental sources the amount of the total operating funds for such program which are not provided by the Secretary;

"(C) no award shall provide funds solely for the planning or development of a health education and training center program for a period in excess of two years;

"(D) not more than 10 percent of the annual budget of each program may be utilized for the renovation and equipping of clinical teaching sites; and

"(E) no award shall provide funds to be used outside the United States except as the Secretary may prescribe for travel and communications purposes related to the conduct of a border health education and training center.

"(7) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'border health education and training center' means an entity that is a recipient of an award under paragraph (1) and that is carrying out (or will carry out) the purpose described in subparagraph (A) of such paragraph.

"(B) The term 'health education and training center' means an entity that is a recipient of an award under paragraph (1).

"(C) The term 'service area' means, with respect to a health education and training center, the geographic area designated for the center under paragraph (3).

"(8) ALLOCATION OF FUNDS BY SECRETARY.—

"(A) Of the amounts appropriated pursuant to subsection (i)(2) for a fiscal year, the Secretary shall make available 50 percent for allocations each fiscal year for applications approved by the Secretary for border health education and training centers. The amount of the allocation for each such center shall be determined in accordance with subparagraph (B).

"(B) The amount of an allocation under subparagraph (A) for a fiscal year shall be determined in accordance with a formula prescribed by the Secretary, which formula shall be based—

"(i) with respect to the service area of the border health education and training center involved, on the low-income population, including Hispanic individuals, in the State of Florida and along the border between the United States and Mexico, and the growth rate of such population;

"(ii) on the need of such population for additional personnel to provide health care services along such border; and

"(iii) on the most current information concerning mortality and morbidity and other indicators of health status for such population.

"(g) DEFINITIONS.—For purposes of this section:

"(1) The term 'area health education center program' means a program which is organized as provided in subsection (b) and under which the participating medical (M.D. and D.O.) schools and the area health education centers meet the requirements of subsections (c) and (d).

"(2) The term 'award' means an award of financial assistance.

"(3) The term 'financial assistance' means a grant, cooperative agreement, or contract.

"(h) CRITERIA AND STANDARDS.—The Secretary shall establish standards and criteria for the requirements of this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AREA HEALTH EDUCATION CENTER PROGRAMS.—

"(A) For the purpose of carrying out this section other than subsection (f), there is authorized to be appropriated $25,000,000 for each of the fiscal years 1993 through 1995.

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than 20 percent for awards under subsection (a)(2).

"(C) Of the amounts appropriated under paragraph (1) for fiscal year 1993, the Secretary shall obligate for awards under subsection (a)(3) such amounts as are appropriated in excess of $19,200,000. Of the amounts appropriated under paragraph (1) for each of the fiscal years 1994 and 1995, the Secretary shall obligate for such awards such amounts as are appropriated in excess of $18,700,000.

"(2) HEALTH EDUCATION AND TRAINING CENTERS.—For the purpose of carrying out subsection (f), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 747. FAMILY MEDICINE.

"(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school of medicine or osteopathic medicine, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of family medicine for medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;

"(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to physi-

cians who are participants in any such program and who plan to teach in a family medicine training program.

"(b) ACADEMIC ADMINISTRATIVE UNITS.—

"(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools of medicine or osteopathic medicine to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

"(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

"(A) establishing an academic administrative unit for programs in family medicine; or

"(B) substantially expanding the programs of such a unit.

"(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $54,000,000 for each of the fiscal years 1993 through 1995.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b).

"SEC. 748. GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine and osteopathic medicine, public or private nonprofit hospital, or any other public or private nonprofit entity to meet the costs of projects—

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of internal medicine or pediatrics for medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians, which training program emphasizes training for the practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations);

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such training program, and who plan to specialize in or work in the practice of general internal medicine or general pediatrics;

"(3) to plan, develop, and operate a program for the training of physicians who will teach in a general internal medicine or general pediatrics training program; and

"(4) which provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a general internal medicine or general pediatrics training program.

"(b) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $25,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 749. GENERAL PRACTICE OF DENTISTRY.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry or an approved advanced educational program in the general practice of dentistry;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry; and

"(3) to fund innovative, nontraditional models for the provision of postdoctoral General Dentistry training.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $6,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 750. PHYSICIAN ASSISTANTS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathic medicine and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs—

"(1) for the training of physician assistants (as defined in section 799); and

"(2) for the training of individuals who will teach programs of such training.

"(b) REGULATIONS.—After consultation with appropriate organizations, the Secretary shall prescribe regulations for programs receiving assistance under subsection (a) for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

"(1) extend for at least one academic year and consist of—

"(A) supervised clinical practice; and

"(B) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care;

"(2) have an enrollment of not less than eight students; and

"(3) train students in primary care, disease prevention, health promotion, geriatric medicine, and home health care.

"(c) PLACEMENT OF GRADUATES.—No grant or contract may be made under subsection (a) unless the school or other entity involved provides assurances satisfactory to the Secretary that the school or entity has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted in positions for which they have been trained.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $9,000,000 for each of the fiscal years 1993 through 1995.

"(2) LIMITATION.—Not more than 10 percent of the amounts appropriated under paragraph (1) may be expended for carrying out subsection (a)(2).

"SEC. 751. PODIATRIC MEDICINE.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private hospitals and schools of podiatric medicine for the purpose of planning and implementing projects in primary care training for podiatric physicians in approved or provisionally approved residency programs which shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

"(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that provide clinical training in podiatric medicine in a variety of medically underserved communities.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $1,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 752. GENERAL PROVISIONS.

"(a) TRAINEESHIPS AND FELLOWSHIPS.—

"(1) TRAINEESHIPS.—Payments by recipients of grants or contracts under this part for traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees.

"(2) FELLOWSHIPS.—Payments by recipients of grants or contracts under this part for fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

"(b) AMOUNT OF GRANT.—The amount of any grant or contract under this part shall be determined by the Secretary.

"PART D—TRAINING IN CERTAIN HEALTH PROFESSIONS

"Subpart I—Public Health and Preventive Medicine

"SEC. 761. PUBLIC HEALTH TRAINEESHIPS.

"(a) IN GENERAL.—The Secretary may make grants to accredited schools of public health, and to other public or nonprofit private institutions accredited for the provision of graduate or specialized training in public health, for the purpose of assisting such schools and institutions in providing traineeships to individuals described in subsection (b)(3).

"(b) CERTAIN REQUIREMENTS.—

"(1) APPLICATION FOR GRANT.—No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(2) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals who are pursuing a course of study in a health professions field in which there is a severe shortage of health professionals (which fields include the fields of epidemiology, environmental health, biostatistics, toxicology, and nutrition).

"SEC. 762. PUBLIC HEALTH SPECIAL PROJECTS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with accredited schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects that are in furtherance of the goals established by the Secretary for the year 2000 in the area of—

"(1) preventive medicine;

"(2) health promotion and disease prevention;

"(3) improving access to and quality of health services in medically underserved communities; or

"(4) reducing the incidence of domestic violence.

"(b) PREFERENCES IN MAKING AWARDS.—In making awards of grants and contracts under subsection (a), the Secretary shall give preference to qualified schools agreeing that the project for which the award is made—

"(1) will establish or strengthen field placements for students in public or nonprofit private health agencies or organizations; and

"(2) will involve faculty members and students in collaborative projects to enhance public health services to medically underserved communities.

"(c) PARTICIPATION AND TRAINING OF STUDENTS.—The Secretary may make an award of a grant or contract under subsection (a) only if the school involved agrees that the students of the school will, through participation in the project for which the award is made, receive training in the activities carried out by the project.

"(d) APPLICATION FOR AWARD.—The Secretary may make an award of a grant or contract under subsection (a) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) ESTABLISHMENT OF GOALS; RELATED REPORTS.—

"(1) GOALS.—

"(A) The Secretary shall establish goals for projects under subsection (a) (including goals regarding the training of students), and shall require that, as a condition of the receipt of grants and contracts under such subsection, schools carry out activities in furtherance of meeting the goals.

"(B) The Secretary shall establish and implement a methodology for measuring the extent of progress that has been made toward the goals established under subparagraph (A) by schools receiving grants or contracts under subsection (a).

"(2) REPORTS.—Not later than February 1, 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing the progress made by projects under subsection (a) during the preceding fiscal years toward the goals established under paragraph (1). For purposes of the report, the extent of such progress shall be measured through the methodology established under subparagraph (B) of such paragraph.

"SEC. 763. PREVENTIVE MEDICINE; DENTAL PUBLIC HEALTH.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, and dentistry to meet the costs of projects—

"(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health; and

"(2) to provide financial assistance to residency trainees enrolled in such programs.

"(b) ADMINISTRATION.—

"(1) AMOUNT.—The amount of any grant under subsection (a) shall be determined by the Secretary.

"(2) APPLICATION.—No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(3) ELIGIBILTY.—To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine or dental public health and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(4) OTHER FUNDS.—Schools of medicine, osteopathic medicine, dentistry, and public health may use funds committed by State, local, or county public health officers as matching amounts for Federal grant funds for residency training programs in preventive medicine.

"SEC. 765. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this subpart, there is authorized to be appropriated $15,500,000 for each of the fiscal years 1993 through 1995.

"(b) LIMITATION REGARDING CERTAIN PROGRAM.—In obligating amounts appropriated under subsection (a), the Secretary may not obligate more than 40 percent for carrying out section 762.

"Subpart II—Allied Health Professions

"SEC. 766. ADVANCED TRAINING.

(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with projects designed to—

(1) plan, develop, establish or expand postbaccalaureate programs for the advanced training of allied health professionals; and

(2) provide financial assistance, in the form of traineeships or fellowships, to postbaccalaureate students who are participants in any such program and who commit to teaching in the allied health profession involved.

(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to qualified projects demonstrating that not less than 50 percent of the graduates of such schools or programs during the preceding 2-year period are engaged as full-time teaching faculty in an allied health shortage specialty.

(c) LIMITATION.—The Secretary shall limit grants and contracts awarded or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

(1) the most significant national or regional shortages of practitioners;

(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; or

(3) a significant role in the care and rehabilitation of patients who are elderly or disabled including physical therapists and occupational therapists.

"(d) ELIGIBLE ENTITIES.—For purposes of this section, the term 'eligible entities' means entities that are—

"(1) public or private nonprofit schools, universities, or other educational entities that provide for education and training in the allied health professions and that meet such standards as the Secretary may by regulation prescribe; or

"(2) public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 767. PROJECT GRANTS AND CONTRACTS.

"(a) PROJECTS RELATED TO STRENGTHENING TRAINING AND INCREASING ENROLLMENT IN THE ALLIED HEALTH PROFESSIONS.—The Secretary may make grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in allied health professions. Programs and activities funded under this section may include—

"(1) those that expand enrollments in allied health professions with the greatest shortages or whose services are most needed by the elderly;

"(2) those that provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

"(3) those that establish community-based allied health training programs that link academic centers to rural clinical settings;

"(4) those that provide career advancement training for practicing allied health professionals;

"(5) those that expand or establish clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained;

"(6) those that develop curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

"(7) those that expand or establish interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

"(8) those that expand or establish demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research; and

"(9) those that provide financial assistance (in the form of traineeships) to students who are participants in any such program, and

"(A) who plan to pursue a career in an allied health field that has a demonstrated personnel shortage; and

"(B) who agree upon completion of the training program to practice in a medically underserved community;

that shall be utilized to assist in the payment of all or part of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary.

"(b) APPLICATION.—

"(1) REQUIREMENT.—No grant may be awarded or contract entered into under this section unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) PREFERENCE.—In considering an application submitted for a grant under this section, the Secretary shall give preference to qualified applicants that—

"(A) expand and maintain first-year enrollment by not less than 10 percent over enrollments in base year 1992; or

"(B) demonstrate that not less than 20 percent of the graduates of such training programs during the preceding 2-year period are working in medically underserved communities.

"(c) ELIGIBLE ENTITIES.—For purposes of this section, the term 'eligible entities' has the meaning given such term in section 766.

"(d) AUTHORIZATION OF APPROPRIATION.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1993 through 1995.

"Subpart III—Health Administration

"SEC. 771. TRAINEESHIPS AND SPECIAL PROJECTS.

"(a) IN GENERAL.—The Secretary may make grants to public or nonprofit private educational entities (including graduate schools of social work but excluding accredited schools of public health) that offer a program described in subsection (b)—

"(1) to provide traineeships for students enrolled in such a program; and

"(2) to assist programs of health administration in the development or improvement of programs to prepare students for employment with public or nonprofit private entities.

"(b) RELEVANT PROGRAMS.—The program referred to in subsection (a) is a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Secretary of Education and which meets such other quality standards as the Secretary of Health and Human Services by regulation may prescribe.

"(c) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that meet the following conditions:

"(1) Not less than 25 percent of the graduates of the applicant are engaged in full-time practice settings in medically underserved communities.

"(2) The applicant recruits and admits students from medically underserved communities.

"(3) For the purpose of training students, the applicant has established relationships with public and nonprofit providers of health care in the community involved.

"(4) In training students, the applicant emphasizes employment with public or nonprofit private entities.

"(d) CERTAIN PROVISIONS REGARDING TRAINEESHIPS.—

"(1) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(2) PREFERENCE FOR CERTAIN STUDENTS.—Each entity applying for a grant under subsection (a) for traineeships shall assure to the satisfaction of the Secretary that the entity will give priority to awarding the traineeships to students who demonstrate a commitment to employment with public or nonprofit private entities in the fields with respect to which the traineeships are awarded.

"(e) APPLICATION FOR GRANT.—No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary may prescribe. Traineeships under such a grant shall be awarded in accordance with such requirements as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For payments under grants under subsection (a), there is authorized to be appropriated $2,500,000 for each of the fiscal years 1993 through 1995.

"(2) LIMITATION.—In obligating amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than 30 percent for grants under subsection (a)(2).

"PART E—SPECIAL TRAINING PROJECTS

"SEC. 776. ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) SCHOOLS; CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants and enter into contracts to assist public and nonprofit private entities and schools and academic health science centers in meeting the costs of projects—

"(A) to train the faculty of schools of, and graduate departments or programs of, medicine, nursing, osteopathic medicine, dentistry, public health, allied health, and mental health practice to teach health professions students to provide for the health care needs of individuals with HIV disease;

"(B) to train practitioners to provide for the health care needs of such individuals;

"(C) with respect to improving clinical skills in the diagnosis, treatment, and prevention of such disease, to educate and train the health professionals and clinical staff of schools of medicine, osteopathic medicine, and dentistry; and

"(D) to develop and disseminate curricula and resource materials relating to the care and treatment of individuals with such disease and the prevention of the disease among individuals who are at risk of contracting the disease.

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to qualified projects which will—

"(A) train, or result in the training of, health professionals who will provide treatment for minority individuals with HIV disease and other individuals who are at high risk of contracting such disease; and

"(B) train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with such disease.

"(3) APPLICATION.—No grant or contract may be made under paragraph (1) unless an application is submitted to the Secretary in such form, at such time, and containing such information, as the Secretary may prescribe.

"(b) DENTAL SCHOOLS.—

"(1) IN GENERAL.—The Secretary may make grants to assist dental schools and programs described in section 777(b)(4)(B) with respect to oral health care to patients with HIV disease.

"(2) APPLICATION.—Each dental school or program described in section 777(b)(4)(B) may annually submit an application documenting the unreimbursed costs of oral health care provided to patients with HIV disease by that school or hospital during the prior year.

"(3) DISTRIBUTION.—The Secretary shall distribute the available funds among all eligible applicants, taking into account the number of patients with HIV disease served and the unreimbursed oral health care costs incurred by each institution as compared with the total number of patients served and costs incurred by all eligible applicants.

"(4) MAINTENANCE OF EFFORT.—The Secretary shall not make a grant under this subsection if doing so would result in any reduction in State funding allotted for such purposes.

"(c) DEFINITION.—For purposes of this section:

"(1) The term 'HIV disease' means infection with the human immunodeficiency virus, and includes any condition arising from such infection.

"(2) The term 'human immunodeficiency virus' means the etiologic agent for acquired immune deficiency syndrome.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SCHOOLS; CENTERS.—For the purpose of grants under subsection (a), there is authorized to be appropriated $23,000,000 for each of the fiscal years 1993 through 1995.

"(2) DENTAL SCHOOLS.—For the purpose of grants under subsection (b), there is authorized to be appropriated $7,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 777. GERIATRICS.

"(a) GERIATRIC EDUCATION CENTERS.—The Secretary may make grants to and enter into contracts with accredited health professions schools or programs described in paragraph (1), (3), or (4) of section 799 or in section 853(2) to assist in meeting the costs of such schools or programs of projects to—

"(1) improve the training of health professionals in geriatrics;

"(2) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(3) expand and strengthen instruction in methods of such treatment;

"(4) support the training and retraining of faculty to provide such instruction;

"(5) support continuing education of health professionals and allied health professionals who provide such treatment; and

"(6) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

"(b) GERIATRIC TRAINING REGARDING PHYSICIANS AND DENTISTS.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathic medicine, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including residencies, traineeships, and fellowships) for geriatric training projects to train physicians and dentists who plan to teach geriatric medicine, geriatric psychiatry, or geriatric dentistry.

"(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine or geriatric psychiatry;

"(B) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be based in a graduate medical education program in internal medicine or family medicine or in a department of geriatrics or psychiatry;

"(D) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(E) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

"(A) A 1-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and psychiatry at schools of medicine and osteopathic medicine; and

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry.

"(B) A 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine; and

"(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'graduate medical education program' means a program sponsored by a school of medicine, a school of osteopathic medi-

cine, a hospital, or a public or private institution that—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

"(B) The term 'post-doctoral dental education program' means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.

"(c) GERIATRIC TRAINING REGARDING OPTOMETRISTS.—The Secretary may make grants to, and enter into contracts with, schools and colleges of optometry for the purpose of providing support for projects—

"(1) to plan, develop, and operate projects in postgraduate geriatric care training for optometrists who will teach geriatric optometry;

"(2) to provide financial assistance (in the form of residencies, traineeships, and fellowships) to participants in such projects; and

"(3) to establish new affiliations with nursing homes, ambulatory care centers, senior centers, and other public or nonprofit private entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) EDUCATION CENTERS; TRAINING.—For grants and contracts under subsections (a) and (b), there is authorized to be appropriated $17,000,000 for each of the fiscal years 1993 through 1995.

"(2) OPTOMETRY.—For grants and contracts under subsection (c), there is authorized to be appropriated $400,000 for each of the fiscal years 1993 through 1995.

"SEC. 778. RURAL AREAS.

"(a) GRANTS.—The Secretary may make grants to, or enter into contracts with, any eligible applicant to help such applicant fund authorized activities under an application approved under subsection (d).

"(b) USE OF AMOUNTS.—

"(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary training projects designed to—

"(A) use new and innovative methods to train health care practitioners to provide services in rural areas;

"(B) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

"(C) deliver health care services to individuals residing in rural areas;

"(D) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

"(E) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

"(2) METHODS.—A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

"(A) the distribution of stipends to students of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

"(B) TRAINING.—Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

"(C) LIMITATION.—An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) in the fiscal year preceding the year for which the grant is received.

"(c) ELIGIBLE APPLICANTS.—Applicants eligible to obtain funds under subsection (a) shall include local health departments, nonprofit organizations and public or nonprofit colleges, universities, or schools of, or programs that specialize in, nursing, mental health practice, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, and allied health professions if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d) APPLICATIONS.—

"(1) SUBMISSION.—In order to receive a grant under subsection (a) an entity shall submit an application to the Secretary.

"(2) FORMS.—An application submitted under this subsection shall be in such form, be submitted by such date, and contain such information as the Secretary shall require.

"(3) APPLICATIONS.—Applications submitted under this subsection shall—

"(A) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas;

"(B) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community mental health centers, long-term care facilities, Native Hawaiian Health centers, or facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act; and

"(C) provide any additional information required by the Secretary.

"(e) DEFINITIONS.—For the purposes of this section, the term 'rural' means geographic areas that are located outside of standard metropolitan statistical areas.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $7,000,000 for each of the fiscal years 1993 through 1995.

"PART F—MISCELLANEOUS PROGRAMS

"SEC. 781. RESEARCH ON CERTAIN HEALTH PROFESSIONS ISSUES.

"(a) EDUCATIONAL INDEBTEDNESS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research on the extent to which the debt incurred by medical students for attendance at educational institutions has had a detrimental effect on the decisions made by the students on entering primary care specialities.

"(2) EVALUATION OF RATE OF INCREASE.—In carrying out paragraph (1), the Secretary shall provide for a determination of the reasons underlying the rate of increase occurring since January 1, 1981, in tuition and fees for attending health professions schools. The Secretary shall ensure that the determination includes the justifications of such schools for such rate.

"(b) EFFECT OF PROGRAMS FOR MINORITY AND DISADVANTAGED INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research on the effects that Federally-funded educational programs or policies for minority or disadvantaged individuals have on—

"(A) the number of such individuals attending health professions school;

"(B) the number of such individuals completing the programs of education involved; and

"(C) the decisions made by such individuals on which of the health professions specialities to enter.

"(2) SEPARATE SPECIFICATIONS FOR CERTAIN CATEGORIES OF SCHOOLS.—The Secretary may provide a grant or contract under paragraph (1) only if the applicant involved agrees that in conducting research under such paragraph the applicant will make findings specific to the following categories of health professions schools:

"(A) Health professions schools of historically black colleges and universities.

"(B) Other health professions schools attended by a substantial number of minority individuals.

"(C) Health professions schools generally.

"(c) EXTENT OF INVESTIGATIONS AND DISCIPLINARY ACTIONS BY STATE LICENSING AUTHORITIES.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research on the effectiveness of the States in protecting the public health through—

"(1) identifying health care providers with respect to whom investigations of professional qualifications are warranted;

"(2) conducting such investigations; and

"(3) taking disciplinary actions against health care providers determined through such investigations to have engaged in conduct inconsistent with protecting the public health.

"(d) PRIMARY HEALTH CARE.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research—

"(A) to determine the extent to which Federal programs and related financial incentives influence the percentage of medical school graduates selecting a primary care career;

"(B) to determine the extent to which Federal programs and related financial incentives adequately support the training of mid-level primary care providers relative to other health professions education receiving Federal assistance;

"(C) to assess the impact that direct and indirect payments for graduate medical education (including the appropriateness of payments for independent, ambulatory training sites) have on increasing the percentage of physicians graduating from medical school who enter primary care careers;

"(D) to assess the impact of medical school admission policies on specialty selection and recommend ways admission policies can better facilitate and promote the selection of primary care as a medical career;

"(E) to assess the impact that Federal funding for biomedical research influences the design of medical school curriculum and the availability of primary care educational opportunities;

"(F) to assess the impact of medical school curriculum, including the availability of clinical training in ambulatory care settings, influences the percentage of physicians selecting primary

care residencies and selecting primary care as a medical career; and

"(G) to assess the extent to which current physician payment policies under resource based relative value scale are sufficient to encourage physicians graduating from medical school to enter and remain in primary care careers.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'primary care careers', with respect to medicine, means family practice, general internal medicine and general pediatrics.

"(B) The term 'mid-level primary care health professions' means physician assistants, nurse practitioners, and nurse midwives.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $4,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 782. CHIROPRACTIC DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools, colleges, and universities of chiropractic for the purpose of carrying out demonstration projects in which chiropractors and physicians collaborate to identify and provide effective treatment for spinal and lower-back conditions.

"(b) PARTICIPATION OF MEDICAL SCHOOLS.—The Secretary may make an award of a grant or contract under subsection (a) only if the applicant involved has entered into such agreements as may be necessary to ensure that in the project under such subsection a school of medicine or osteopathic medicine will participate in the project.

"(c) PEER REVIEW.—Each peer review group under section 798(a) reviewing proposals for grants or contracts under subsection (a) shall include no fewer than two, and no more than three, chiropractors.

"(d) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall prepare a report that—

"(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

"(B) specifies the identity of entities receiving the grants or contracts; and

"(C) evaluates the effectiveness of the programs operated with the grants and contracts.

"(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 10, 1995, the Secretary shall complete the report required in paragraph (1) and submit the report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $1,000,000 for each of the fiscal years 1993 through 1995.

"PART G—GENERAL PROVISIONS

"SEC. 791. PREFERENCES AND REQUIRED INFORMATION IN CERTAIN PROGRAMS.

"(a) PREFERENCES IN MAKING AWARDS.—

"(1) IN GENERAL.—Subject to paragraph (2), in making awards of grants or contracts under any of sections 747 through 751, under section 763, or under section 766 or 767, the Secretary shall give preference to any qualified applicant that—

"(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

"(B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

"(2) LIMITATION REGARDING PEER REVIEW.—For purposes of paragraph (1), the Secretary may not give an applicant preference if the proposal of the applicant is ranked at or below the 20th percentile of proposals that have been recommended for approval by peer review groups under section 798(a).

"(b) REQUIRED SUBMISSION OF INFORMATION.—The Secretary may make an award of a grant or contract under any of sections 747 through 751 or under section 763 only if the applicant for the award submits to the Secretary (through the application required in section 752(a)) the following information regarding the programs of the applicant:

"(1) A description of rotations or preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.

"(2) The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.

"(3) With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

"(4) If applicable, the number of recent graduates who have chosen careers in primary health care.

"(5) The number of recent graduates whose practices are serving medically underserved communities.

"(6) A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

"(c) DEFINITION.—For purposes of this section, the term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health profession selected by the individual.

"SEC. 792. HEALTH PROFESSIONS DATA.

"(a) IN GENERAL.—The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which program shall initially include data respecting all physicians and dentists in the States. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, chiropractors, clinical psychologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socio-economic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

"(b) CERTAIN AUTHORITIES AND REQUIREMENTS.—

"(1) SOURCES OF INFORMATION.—In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

"(2) CONTRACTS FOR STUDIES OF HEALTH PROFESSIONS.—The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location. Such studies shall include studies determining by specialty and geographic location the number of health professionals (including allied health professionals and health care administration personnel) who are members of minority groups, including Hispanics, and studies providing by specialty and geographic location evaluations and projections of the supply of, and requirements for, health professionals (including allied health professionals and health care administration personnel) to serve minority groups, including Hispanics.

"(3) GRANTS AND CONTRACTS REGARDING STATES.—The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a). The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurance, satisfactory to the Secretary, that—

"(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

"(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

"(C) such State or entity shall comply with the requirements of subsection (e).

"(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress on October 1, 1993, and biennially thereafter, the following reports:

"(1) A comprehensive report regarding the status of health personnel according to profession, including a report regarding the analytic and descriptive studies conducted under this section.

"(2) A comprehensive report regarding applicants to, and students enrolled in, programs and institutions for the training of health personnel, including descriptions and analyses of student indebtedness, student need for financial assistance, financial resources to meet the needs of students, student career choices such as practice specialty and geographic location and the relationship, if any, between student indebtedness and career choices.

"(e) REQUIREMENTS REGARDING PERSONAL DATA.—

"(1) IN GENERAL.—The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity, as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which use is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting

such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

"(2) CONSENT AS PRECONDITION TO DISCLOSURE.—Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3) DISCLOSURE BY SECRETARY.—

"(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) DEFINITION.—For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

"(g) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.

"(h) GRANTS AND CONTRACTS REGARDING NONPROFIT ENTITIES.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary may make grants, or enter into contracts and cooperative agreements with, and provide technical assistance to, any nonprofit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

"(2) REPORTS.—With respect to reports required in subsection (d), each such report made on or after October 1, 1991, shall include a description and analysis of data collected pursuant to paragraph (1).

"SEC. 793. STATISTICS; ANNUAL REPORT.

"(a) STATISTICS AND OTHER INFORMATION.—The Secretary shall, in coordination with the National Center for Health Statistics (established under section 306), continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including—

"(1) detailed descriptions of the various types of activities in which public and community health personnel are engaged,

"(2) the current and anticipated needs for the various types of public and community health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

"(b) REQUIREMENTS REGARDING PERSONAL DATA.—

"(1) IN GENERAL.—The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the activities conducted under this section.

"(2) CONSENT AS PRECONDITION TO TRANSFER OF INFORMATION.—Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity to use such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3) DISCLOSURE BY SECRETARY.—

"(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

"(c) REPORT.—The Secretary shall submit biennially to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate a report on—

"(1) the statistics and other information developed pursuant to subsection (a); and

"(2) the activities conducted under subparts I and II of part D, including an evaluation of such activities.

Such report shall contain such recommendations for legislation as the Secretary determines are needed to improve the programs authorized under such subparts. The Office of Management and Budget may review such report before its submission to such Committees, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to such Committees its comments respecting such report.

"(d) DEFINITIONS.—For purposes of this section, the term 'public and community health personnel' means individuals who are engaged in—

"(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

"(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

"(3) the development and improvement of individual and community knowledge of health (including environmental health and preventive medicine) and the health care system, or

"(4) the planning and development of a healthful environment and control of environmental health hazards.

"SEC. 794. PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.

"The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, pharmacy, podiatric medicine, or public health or any training center for allied health personnel, or graduate program in clinical psychology, unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this title with any such school or training center unless the school, training center, or graduate program furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

"(1) on the date of the enactment of this sentence is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

"(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979.

"SEC. 795. OBLIGATED SERVICE REGARDING CERTAIN PROGRAMS.

"(a) IN GENERAL.—In the case of any program under this title under which a scholarship, stipend, or other financial assistance is provided to an individual with respect to education as a health professional (including a program that provides for the repayment of loans), if the program provides that the provision of the financial assistance involved is subject to this section, then the assistance may be provided only if the individual makes agreements as follows:

"(1) The individual will complete the program of education with respect to which such assistance is provided (in the case of assistance provided for purposes other than the repayment of loans).

"(2) In the case of an individual who receives such assistance with respect to attendance at a school of medicine or osteopathic medicine, the individual will—

"(A) enter and complete a residency training program in a specialty in primary health care not later than 4 years after completing the program of education described in paragraph (1); and

"(B) practice in the specialty for 5 years after completing the residency training program.

"(3) in the case of an individual who receives such assistance with respect to attendance at a

school of dentistry, the individual will practice in general dentistry for 5 years (exclusive of any period during which the individual is attending a residency training program in general dentistry).

"(4) Subsection (b) applies with respect to the breach of agreements made under any of paragraphs (1) through (3).

"(b) BREACH OF AGREEMENTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), the following applies:

"(A) In the case of a program under this title that provides financial assistance for attendance at a program of education in a health profession, the individual is liable to the Federal Government for the amount of the award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the program of education (as indicated by such program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the program for disciplinary reasons; or

"(iii) voluntarily terminates the program.

"(B) The individual is liable to the Federal Government for the amount of the award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to comply with the agreement made under subsection (a)(2).

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual making agreements under subsection (a), the Secretary shall provide for the waiver or suspension of liability under paragraph (1) if compliance by the individual with the agreements involved is impossible, or would involve extreme hardship to the individual, and if enforcement of the agreements with respect to the individual would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the three-year period beginning on the date the United States becomes so entitled.

"SEC. 798. CERTAIN GENERAL PROVISIONS.

"(a) PEER REVIEW.—Each application for a grant or contract under this title shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"(b) DELEGATION OF AUTHORITY OF SECRETARY.—The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices of the Department, except that the authority to make such a grant, enter into such a contract, continue such a grant or contract, or modify such a contract, shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department.

"(c) DIFFERENTIAL TUITION AND FEES.—The Secretary may not enter into a contract with, or make a grant, loan guarantee, or interest subsidy payment under this title or title VIII, to or for the benefit of, any school, program, or training center if the tuition levels or educational fees at such school, program, or training center are higher for certain students solely on the basis that such students are the recipients of traineeships, loans, loan guarantees, service scholarships, or interest subsidies from the Federal Government.

"(d) APPLICABILITY OF CERTAIN PROVISIONS ON CONTRACTS.—Contracts authorized by this title may be entered into without regard to section 3324 of title 31, United States Code, or section 3709 of the Revised Statutes (41 U.S.C. 5).

"(e) RECORDS AND AUDITS.—

"(1) MAINTENANCE OF RECORDS.—

"(A) Each entity which receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall establish and maintain such records as the Secretary shall by regulation or order require.

"(B) The Secretary may specify, by regulation, the form and manner in which such records, required by subparagraph (A), shall be established and maintained.

"(2) BIENNIAL AUDITS.— Each entity which received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant or contract and such other funds received by or allocated to the project or undertaking for which such grant or contract was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with such requirements concerning the individual or agency which conducts the audit, and such standards applicable to the performance of the audit, as the Secretary may by regulation provide. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.

"(3) APPLICABILITY TO STUDENTS.—A student recipient of a scholarship, traineeship, loan, or loan guarantee under this title shall not be required to establish or maintain the records required in paragraph (1) or provide for an audit required in paragraph (2).

"(4) AVAILABILITY OF DOCUMENTS, ETC.,—

"(A) Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

"(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to carry out the purposes of this paragraph.

"(f) MISCELLANEOUS PROVISIONS.—

"(1) PAYMENTS UNDER GRANTS.—Grants made under this title may be paid (A) in advance or by way of reimbursement, (B) at such intervals and on such conditions as the Secretary may find necessary, and (C) with appropriate adjustments on account of overpayments or underpayments previously made.

"(2) APPLICATIONS FOR GRANTS AND CONTRACTS.—No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(3) ASSURANCES.—Whenever in this title an applicant is required to provide assurances to the Secretary, or an application is required to contain assurances or be supported by assurances, the Secretary shall determine before approving the application that the assurances provided are made in good faith.

"(4) TECHNICAL ASSISTANCE.—Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.

"(5) GRADUATES OF FOREIGN MEDICAL SCHOOLS.—The Secretary may make an award of a grant, cooperative agreement, or contract under this title to an entity (including a school) that provides graduate training in the health professions only if the entity agrees that, in considering applications for admissions to a program of such training, the entity will not refuse to consider an application solely on the basis that the application is submitted by a graduate of a foreign medical school. This paragraph may not be construed as establishing any private right of action.

"SEC. 799. DEFINITIONS.

"For purposes of this title:

"(1)(A) The terms 'school of medicine', 'school of dentistry', 'school of osteopathic medicine', 'school of pharmacy', 'school of optometry', 'school of podiatric medicine', 'school of veterinary medicine', 'school of public health', and 'school of chiropractic' mean an accredited public or nonprofit private school in a State that provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree or a degree of doctor of pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a graduate degree in public health or an equivalent degree, and a degree of doctor of chiropractic or an equivalent degree, and including advanced training related to such training provided by any such school.

"(B) The terms 'graduate program in health administration' and 'graduate program in clinical psychology' mean an accredited graduate program in a public or nonprofit private institution in a State that provides training leading, respectively, to a graduate degree in health administration or an equivalent degree and a doctoral degree in clinical psychology or an equivalent degree.

"(C) The terms 'graduate program in clinical social work' and 'graduate program in marriage and family therapy' mean an accredited graduate program in a public or nonprofit private institution in a State that provides training, respectively, in a concentration in health or mental health care leading to a graduate degree in social work and a concentration leading to a graduate degree in marriage and family therapy.

"(D) The term 'graduate program in mental health practice' means a graduate program in clinical psychology, clinical social work, or marriage and family therapy.

"(E) The term 'accredited', when applied to a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, or chiropractic, or a graduate program in health administration, clinical psychology, clinical social work, or marriage and family therapy, means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title, if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school or program will meet the accreditation standards of such

body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or program.

"(2) The term 'teaching facilities' means areas dedicated for use by students, faculty, or administrative or maintenance personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities but does not include off-site improvements or living quarters.

"(3) The term 'program for the training of physician assistants' means an educational program that—

"(A) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide primary health care under the supervision of a physician; and

"(B) meets regulations prescribed by the Secretary in accordance with section 750(b).

"(4) The term 'school of allied health' means a public or nonprofit private college, junior college, or university or hospital-based educational entity that—

"(A) provides, or can provide, programs of education to enable individuals to become allied health professionals or to provide additional training for allied health professionals;

"(B) provides training for not less than a total of twenty persons in the allied health curricula (except that this subparagraph shall not apply to any hospital-based educational entity);

"(C) includes or is affiliated with a teaching hospital; and

"(D) is accredited by a recognized body or bodies approved for such purposes by the Secretary of Education, or which provides to the Secretary satisfactory assurance by such accrediting body or bodies that reasonable progress is being made toward accreditation.

"(5) The term 'allied health professionals' means a health professional (other than a registered nurse or physician assistant)—

"(A) who has received a certificate, an associate's degree, a bachelor's degree, a master's degree, a doctoral degree, or postbaccalaureate training, in a science relating to health care;

"(B) who shares in the responsibility for the delivery of health care services or related services, including—

"(i) services relating to the identification, evaluation, and prevention of disease and disorders;

"(ii) dietary and nutrition services;

"(iii) health promotion services;

"(iv) rehabilitation services; or

"(v) health systems management services; and

"(C) who has not received a degree of doctor of medicine, a degree of doctor of osteopathy, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of pharmacy or an equivalent degree, a graduate degree in public health or an equivalent degree, a degree of doctor of chiropractic or an equivalent degree, a graduate degree in health administration or an equivalent degree, a doctoral degree in clinical psychology or an equivalent degree, or a degree in social work or an equivalent degree.

"(6) The term 'medically underserved community' means an urban or rural area or population that—

"(A) is eligible for designation under section 332 as a health professional shortage area;

"(B) is eligible to be served by a migrant health center under section 329, a community health center under section 330, a grantee under section 340 (relating to homeless individuals, or a grantee under section 340A (relating to residents of public housing); or

"(C) has a shortage of personal health services, as determined under criteria issued by the Secretary under section 1861(aa)(2) of the Social Security Act (relating to rural health clinics).

"(7) The term 'Department' means the Department of Health and Human Services.

"(8) The term 'nonprofit' refers to the status of an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(10)(A) Subject to subparagraph (B), the term 'underrepresented minorities' means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved.

"(B) For purposes of subparagraph (A), Asian individuals shall be considered by the various subpopulations of such individuals.".

SEC. 103. EFFECTIVE DATE.

The amendment made by section 102 takes effect on the date of the enactment of this Act, except that section 708 of the Public Health Service Act, as added by section 102 of this Act, takes effect January 1, 1993. Until such date, section 732(c) of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act, continues in effect in lieu of such section 708.

TITLE II—NURSE EDUCATION

SEC. 201. SHORT TITLE.

This title may be referred to as the Nurse Education and Practice Improvement Amendments of 1992.

SEC. 202. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) IN GENERAL.—Section 820 of the Public Health Service Act (42 U.S.C. 296k) is amended to read as follows:

"SPECIAL PROJECT GRANTS AND CONTRACTS

"SEC. 820. (a) EXPANSION OF ENROLLMENT IN PROFESSIONAL NURSING PROGRAMS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private schools of nursing with programs of education in professional nursing for the purpose of assisting the schools in increasing the number of students enrolled in such programs. Such a grant or contract may be made only with respect to such programs that are in operation on the date of the enactment of the Health Professions Education Extension Amendments of 1992.

"(2) PREFERENCE.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified school that provides students of the school with clinical training in the provision of primary health care in publicly-funded—

"(A) urban or rural outpatient facilities, home health agencies, or public health agencies; or

"(B) rural hospitals.

"(3) MATCHING FUNDS.—

"(A) With respect to the costs of the program to be carried out by a school pursuant to paragraph (1), the Secretary may provide an award of a grant or contract under such paragraph only if the school agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

"(i) for the first fiscal year for which the school receives such an award, is not less than $1 for each $9 of Federal funds provided through the award (10 percent of such costs);

"(ii) for any second such fiscal year, is not less than $1 for each $3 of Federal funds provided through the award (25 percent of such costs);

"(iii) for any third such fiscal year, is not less than $1 for each $1 of Federal funds provided through the award (50 percent of such costs); and

"(iv) for any fourth or fifth such fiscal year, is not less than $3 for each $1 of Federal funds provided through the award (75 percent of such costs).

"(B) Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(b) PRIMARY HEALTH CARE IN NONINSTITUTIONAL SETTINGS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private schools of nursing for the establishment or expansion of nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities.

"(2) OPERATION AND STAFFING OF PROGRAMS.—The Secretary may make an award of a grant or contract under paragraph (1) only if the school involved agrees that the program carried out with the award will be operated and staffed by the faculty and students of the school.

"(3) DESIGN.—The Secretary may make an award of a grant or contract under paragraph (1) only if the program to be carried out under such paragraph by the school involved is designed to provide at least 25 percent of the students of the school with a structured clinical experience in primary health care.

"(c) CONTINUING EDUCATION FOR NURSES IN MEDICALLY UNDERSERVED COMMUNITIES.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of providing continuing education for nurses serving in medically underserved communities.

"(d) LONG-TERM CARE FELLOWSHIPS FOR CERTAIN PARAPROFESSIONALS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities that operate accredited programs of education in professional nursing, or State-board approved programs of practical or vocational nursing, for the purpose of providing fellowships to individuals described in paragraph (2) for attendance in such programs.

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals who are employed by nursing facilities or home health agencies as nursing paraprofessionals.

"(3) PREFERENCE FOR SCHOOLS WITH RAPID TRANSITION PROGRAMS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant operating an accredited program of education in professional nursing that provides for the rapid transition to status as a professional nurse from status as a nursing paraprofessional.

"(4) PREFERENCE IN AWARD OF FELLOWSHIPS.—The Secretary may make an award of a grant or contract under paragraph (1) only if the applicant involved agrees that, in providing fellowships under the award, the applicant will

give preference to individuals described in paragraph (2) who—

"(A) are economically disadvantaged individuals, particularly such individuals who are members of a minority group that is underrepresented among registered nurses; or

"(B) are employed by a nursing facility that will assist in paying the costs or expenses described in paragraph (5)(A) with respect to the individuals.

"(5) USE OF AWARD.—The Secretary may make an award of a grant or contract under paragraph (1) only if the applicant involved agrees that fellowships provided with the award will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of nursing respect to which the fellowship is provided; and

"(B) reasonable living expenses of the individual during the period for which the fellowship is provided.

"(6) DEFINITION.—For purposes of this section:

"(A) The term 'home health agency' has the meaning given such term in section 1861 of the Social Security Act.

"(B) The term 'nursing facility' has the meaning given such term in section 1919 of the Social Security Act.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,500,000 for each of the fiscal years 1993 and 1994.".

(b) DEFINITION OF MEDICALLY UNDERSERVED COMMUNITIES.—Section 853 of the Public Health Service Act (42 U.S.C. 298b) is amended by adding at the end the following new paragraph:

"(11) The term 'medically underserved community' has the meaning given such term in section 799.".

(c) SAVINGS PROVISION FOR CURRENT PROJECTS.—In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by subsection (a), the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

SEC. 203. ADVANCED NURSE EDUCATION.

Section 821 of the Public Health Service Act (42 U.S.C. 296l) is amended to read as follows:

"ADVANCED NURSE EDUCATION

"SEC. 821. (a) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private collegiate schools of nursing to meet the costs of projects that, in the case of programs described in susbsection (b)—

"(1) plan, develop, and operate new such programs; or

"(2) significantly expand existing such programs.

"(b) AUTHORIZED PROGRAMS.—The programs referred to in subsection (a) are programs leading to advanced degrees that prepare nurses to serve as nurse educators or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education.

"(c) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $12,000,000 for each of the fiscal years 1993 and 1994.

"(2) LIMITATION.—Of the amounts appropriated under paragraph (1), the Secretary may not obligate more than 10 percent for providing grants or contracts under subsection (a) for programs leading to doctoral degrees.".

SEC. 204. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

Section 822 of the Public Health Service Act (42 U.S.C. 296m) is amended to read as follows:

"NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS

"SEC. 822. (a) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private schools of nursing or other public and nonprofit private entities to meet the costs of projects that, with respect to programs described in subsection (b)—

"(1) plan, develop, and operate new such programs; or

"(2) maintain or significantly expand existing such programs.

"(b) AUTHORIZED PROGRAMS.—

"(1) IN GENERAL.—The programs referred to in subsection (a) are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

"(A) meet guidelines prescribed by the Secretary in accordance with paragraph (2); and

"(B) have as their objective the education of nurses who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities and other health care institutions.

"(2) GUIDELINES.—After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs described in paragraph (1). Such guidelines shall, as a minimum, require that such a program—

"(A) extend for at least one academic year and consist of—

"(i) supervised clinical practice directed toward preparing nurses to deliver primary health care; and

"(ii) at least four months (in the aggregate) of classroom instruction that is so directed; and

"(B) have an enrollment of not less than six full-time equivalent students.

"(c) CERTAIN CONSIDERATIONS IN MAKING AWARDS.—

"(1) PREFERENCE.—In making awards of grants and contracts under subsection (a), the Secretary shall give preference to any qualified applicant that, with respect to programs described in subsection (b), agree to expend the award to plan, develop, and operate new such programs or to significantly expand existing such programs.

"(2) SPECIAL CONSIDERATION.—In making awards of grants and contracts under subsection (a), the Secretary shall give special consideration to qualified applicants that agree to expend the award to train individuals as nurse practitioners and nurse midwives who will practice in health professional shortage areas designated under section 332.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1993 and 1994.".

SEC. 205. SPECIAL PROJECTS REGARDING DISADVANTAGED INDIVIDUALS.

Section 827(c) of the Public Health Service Act (42 U.S.C. 296r(c)) is amended

(1) by striking "and" after "1990,"; and

(2) by inserting before the period the following: ", $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994".

SEC. 206. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 of the Public Health Service Act (42 U.S.C. 297) is amended to read as follows:

"TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES

"SEC. 830. (a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities to meet the cost of traineeships for individuals in advanced-degree programs in order to educate the individuals to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education.

"(b) SPECIAL CONSIDERATION IN MAKING GRANTS.—In making grants for traineeships under subsection (a), the Secretary shall give special consideration to applications for traineeship programs that conform to guidelines established by the Secretary under section 822(b)(2).

"(c) PREFERENCE IN PROVISION OF TRAINEESHIPS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in providing traineeships under such subsection, the applicant will give preference to individuals who are residents of health professional shortage areas designated under section 332.

"(d) ELIGIBILITY OF INDIVIDUALS IN MASTER'S DEGREE PROGRAMS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that the applicant will not provide a traineeship under such subsection to an individual enrolled in a masters of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant.

"(e) USE OF GRANT.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that traineeships provided with the grant will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided; and

"(B) reasonable living expenses of the individual during the period for which the traineeship is provided.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1993 and 1994.

"(2) LIMITATION REGARDING CERTAIN TRAINEESHIPS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than 10 percent for providing traineeships under subsection (a) for individuals in doctoral degree programs.".

SEC. 207. NURSE ANESTHETISTS.

(a) PREFERENCES REGARDING GRANTS AND TRAINEESHIPS; USE OF GRANT.—Section 831(a) of the Public Health Service Act (42 U.S.C. 297-1(a)) is amended—

(1) by striking paragraph (2); and

(2) by inserting after paragraph (1) the following paragraphs:

"(2)(A) In making grants under paragraph (1), the Secretary shall give preference to qualified applicants carrying out traineeship programs whose participants gain significant experience in providing health services at rural health facilities.

"(B) The Secretary may make a grant under paragraph (1) only if the institution involved agrees that, in providing traineeships under such paragraph, the institution will give preference to individuals who are residents of health professional shortage areas designated under section 332.

"(3) The Secretary may make a grant under paragraph (1) only if the applicant involved agrees that traineeships provided with the grant will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided; and

"(B) reasonable living expenses of the individual during the period for which the traineeship is provided.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 831(c) of the Public Health Service Act (42 U.S.C. 297–1(c)) is amended in the first sentence by inserting before the period the following: ", $3,000,000 for fiscal year 1993, and $4,000,000 for fiscal year 1994".

SEC. 208. STUDENT LOANS.

(a) ALLOTMENTS AND PAYMENTS OF FEDERAL CAPITAL CONTRIBUTIONS.—Section 838(a)(3) of the Public Health Service Act (42 U.S.C. 297d(a)(3)) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) in the first sentence, by striking "available for allotment" and all that follows and inserting the following: "available for allotment until expended.";

(B) in the second sentence, by striking "this subpart, except" and all that follows and inserting "this subpart."; and

(C) by striking the subparagraph designation.

(b) DISTRIBUTION OF ASSETS FROM LOAN FUNDS.—Section 839 of the Public Health Service Act (42 U.S.C. 297e) is amended—

(1) in subsection (a), by striking out "1991" and inserting in lieu thereof "1996"; and

(2) in subsections (a) and (b), by striking "1994" each place such term appears and inserting "1999".

SEC. 209. CERTAIN GENERALLY APPLICABLE PROVISIONS.

Title VIII of the Public Health Service Act (42 U.S.C. 296k et seq.) is amended by adding at the end the following section:

"CERTAIN GENERALLY APPLICABLE PROVISIONS

"SEC. 860. (a) APPLICATION FOR GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—The Secretary may make an award of a grant, cooperative agreement, or contract under this title only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the program authorizing the award.

"(b) DURATION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

"(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

"(c) BREACH OF AGREEMENTS FOR OBLIGATED SERVICE.—

"(1) IN GENERAL.—In the case of any program under this title under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

"(A) In the case of a program under this title that makes an award of Federal funds for attending an accredited program of nursing (in this subsection referred to as 'nursing program'), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the nursing program for disciplinary reasons; or

"(iii) voluntarily terminates the nursing program.

"(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this title for the period of time applicable under the program.

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such paragraph if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the three-year period beginning on the date the United States becomes so entitled.

"(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this title shall be available for the purposes of such program, and shall remain available for such purposes until expended.

"(d) PEER REVIEW REGARDING CERTAIN PROGRAMS.—Each application for a grant or contract under any of sections 821, 822, 830, and 831 shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"(e) PREFERENCES AND REQUIRED INFORMATION IN CERTAIN PROGRAMS.—

"(1) PREFERENCES IN MAKING AWARDS.—

"(A) Subject to subparagraph (B), in awarding grants or contracts under any of sections 821, 822, 830, and 831, the Secretary shall give preference to any qualified applicant that—

"(i) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

"(ii) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

"(B) For purposes of subparagraph (A), the Secretary may not give an applicant preference if the proposal of the applicant is ranked at or below the 20th percentile of proposals that have been recommended for approval by peer review groups under subsection (d).

"(2) REQUIRED SUBMISSION OF INFORMATION.—The Secretary may make an award of a grant or contract under any of sections 821, 822, 830, and 831 only if the applicant for the award submits to the Secretary (through the application for the award) the following information regarding the programs of the applicant:

"(A) A description of rotations or preceptorships for students that have the principal focus of providing health care to medically underserved communities.

"(B) The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved or rural communities.

"(C) With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

"(D) If applicable to the applicant, the number of recent graduates who have chosen careers in primary health care.

"(E) The number of recent graduates whose practices are serving medically underserved communities.

"(F) A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

"(3) DEFINITION.—For purposes of this subsection, the term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training requirements necessary for full certification in the health profession selected by the individual.".

SEC. 210. DEMONSTRATION PROGRAM REGARDING SERVICE IN CERTAIN HEALTH CARE FACILITIES.

Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by striking subpart IV.

SEC. 211. TRANSFER OF LOAN REPAYMENT PROGRAM.

(a) IN GENERAL.—Part B of title VIII of the Public Health Service Act, as amended by section 210 of this Act, is amended—

(1) in section 836—

(A) by striking subsection (h); and

(B) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively;

(2) by striking section 837A; and

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

"Subpart IV—Loan Repayment Program

"LOAN REPAYMENT PROGRAM

"SEC. 846. (a) IN GENERAL.—In the case of any individual—

"(1) who has received a baccalaureate or associate degree in nursing (or an equivalent degree), a diploma in nursing, or a graduate degree in nursing;

"(2) who obtained (A) one or more loans from a loan fund established under subpart II, or (B) any other educational loan for nurse training costs; and

"(3) who enters into an agreement with the Secretary to serve as nurse for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a public hospital, in a migrant health center, in a community health center, in a rural health clinic, or in a public or nonprofit private health facility determined by the Secretary to have a critical shortage of nurses;

the Secretary shall make payments in accordance with subsection (b), for and on behalf of

that individual, on the principal of and interest on any loan of that individual described in paragraph (2) of this subsection which is outstanding on the date the individual begins the service specified in the agreement described in paragraph (3) of this subsection.

"(b) MANNER OF PAYMENTS.—The payments described in subsection (a) shall be made by the Secretary as follows:

"(1) Upon completion by the individual for whom the payments are to be made of the first year of the service specified in the agreement entered into with the Secretary under subsection (a), the Secretary shall pay 30 percent of the principal of, and the interest on each loan of such individual described in subsection (a)(2) which is outstanding on the date he began such practice.

"(2) Upon completion by that individual of the second year of such service, the Secretary shall pay another 30 percent of the principal of, and the interest on each such loan.

"(3) Upon completion by that individual of a third year of such service, the Secretary shall pay another 25 percent of the principal of, and the interest on each such loan.

"(c) PAYMENT BY DUE DATE.—Notwithstanding the requirement of completion of practice specified in subsection (b), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then serving as described by subsection (a)(3), and that the borrower will continue to so serve for the period required (in the absence of this subsection) to entitle the borrower to have made the payments provided by this subsection for such period; except that not more than 85 percent of the principal of any such loan shall be paid pursuant to this subsection.

"(d) BREACH OF AGREEMENT.—The Secretary may make payments under subsection (a) on behalf of an individual only if the agreement under such subsection provides that section 860(c) is applicable to the individual.

"(e) PREFERENCES REGARDING PARTICIPANTS.—In entering into agreements under subsection (a), the Secretary shall give preference—

"(1) to qualified applicants with the greatest financial need; and

"(2) to qualified applicants that, with respect to health facilities described in such subsection, agree to serve in such health facilities located in geographic areas with a shortage of and need for nurses, as determined by the Secretary.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term "community health center" has the meaning given such term in section 330(a).

"(2) The term "migrant health center" has the meaning given such term in section 329(a)(1).

"(3) The term "rural health clinic" has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of payments under agreements entered into under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994.".

(b) RULE OF CONSTRUCTION.—With respect to section 836(h) of the Public Health Service Act, as in effect prior to the date of the enactment of this Act, any agreement entered into under such section that is in effect on the day before such date remains in effect in accordance with the terms of the agreement, notwithstanding the amendment made by subsection (a) of this section.

SEC. 212. ADVISORY COUNCIL ON NURSES EDUCATION; REVIEW COMMITTEE.

Section 851 of the Public Health Service Act (42 U.S.C. 298) is amended—

(1) in subsection (a), in the first sentence, by striking "Advisory" and all that follows through "consisting" and inserting the following: "National Advisory Council on Nurse Education and Practice (in this section referred to as the 'Council'), consisting"; and

(2) in the heading for the section, by striking "NURSES EDUCATION;" and inserting "NURSE EDUCATION AND PRACTICE;".

SEC. 213. EVALUATIONS.

Section 859(b) of the Public Health Service Act (42 U.S.C. 298b–6(b)) is amended—

(1) by striking subsection (1); and

(2) in paragraph (2)—

(A) by striking "(2)"; and

(B) by striking "not later than" and all that follows through "submit" and inserting the following: "not later than January 10, 1994, and every 2 years thereafter, submit".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. ADVISORY COUNCIL ON GRADUATE MEDICAL EDUCATION.

(a) ESTABLISHMENT; DUTIES.—There is established the Council on Graduate Medical Education (in this section referred to as the "Council"). The Council shall—

(1) make recommendations to the Secretary of Health and Human Services (in this section referred to as the "Secretary"), and to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with respect to—

(A) the supply and distribution of physicians in the United States;

(B) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

(C) issues relating to foreign medical school graduates;

(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

(E) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathic medicine, and accrediting bodies with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate medical education programs; and

(F) deficiencies in, and needs for improvements in, existing data bases concerning the supply and distribution of, and post-graduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies; and

(2) encourage entities providing graduate medical education to conduct activities to voluntary achieve the recommendations of the Council under paragraph (1)(E).

(b) COMPOSITION.—The Council shall be composed of—

(1) the Assistant Secretary for Health or the designee of the Assistant Secretary;

(2) the Administrator of the Health Care Financing Administration;

(3) the Chief Medical Director of the Department of Veterans Affairs;

(4) 6 members appointed by the Secretary to include representatives of practicing primary care physicians, national and specialty physician organizations, foreign medical graduates, and medical student and house staff associations;

(5) 4 members appointed by the Secretary to include representatives of schools of medicine and osteopathic medicine and public and private teaching hospitals; and

(6) 4 members appointed by the Secretary to include representatives of health insurers, business, and labor.

(c) TERMS OF APPOINTED MEMBERS.—

(1) IN GENERAL; STAGGERED ROTATION.—Members of the Council appointed under paragraphs (4), (5), and (6) of subsection (b) shall be appointed for a term of 4 years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, 4 at the end of 1 year, 4 at the end of 2 years, 3 at the end of 3 years, and 3 at the end of 4 years.

(2) DATE CERTAIN FOR APPOINTMENT.—The Secretary shall appoint the first members to the Council under paragraphs (4), (5), and (6) of subsection (b) within 60 days after the date of enactment of this section.

(d) CHAIR.—The Council shall elect one of its members as Chairman of the Council.

(e) QUORUM.—Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

(f) VACANCIES.—Any vacancy in the Council shall not affect its power to function.

(g) COMPENSATION.—Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) CERTAIN AUTHORITIES AND DUTIES.—

(1) AUTHORITIES.—In order to carry out the provisions of this section, the Council is authorized to—

(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(2) COORDINATION OF ACTIVITIES.—The Council shall coordinate its activities with the activities of the Secretary under section 792 of the Public Health Service Act. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under such section 792 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

(i) REQUIREMENT REGARDING REPORTS.—In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.

(j) FINAL REPORT.—Not later than April 1, 1995, the Council shall submit a final report under subsection (a).

(k) TERMINATION.—The Council shall terminate September 30, 1995.

SEC. 302. COMMISSION ON ALLIED HEALTH.

(a) ESTABLISHMENT.—There is established an advisory council to be known as the National Commission on Allied Health (in this section referred to as the "Commission"), which shall

meet at least twice annually until such time as the final report is submitted under subsection (e).

(b) DUTIES.—The Commission shall—

(1) make recommendations to the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with respect to—

(A) the supply and distribution of allied health personnel throughout the United States;

(B) current and future shortages or excesses of allied health personnel, particularly in medically underserved and rural communities;

(C) priority research needs within the allied health professions;

(D) appropriate Federal policies relating to the matters described in subparagraphs (A) through (C), including policies concerning changes in the financing of undergraduate and graduate allied health programs, changes in the types of allied health education, and the appropriate Federal role in the development of a research base in the allied health professions;

(E) appropriate efforts to be carried out by health care facilities, schools and programs of allied health, and professional associations with respect to the matter referred to in subparagraph (A), including efforts for changes in undergraduate and graduate allied health education programs, and private support for research initiatives;

(F) deficiencies and needs for improvements in existing data bases concerning the supply and distribution of training programs for allied health in the United States and steps that should be taken to eliminate such deficiencies; and

(G) problems, and recommendations for the resolution of such problems, relating to the roles and functions of professionals within the allied health fields and other fields such as medicine and dentistry; and

(2) encourage entities providing allied health education to conduct activities to voluntarily achieve the recommendations of the Commission.

(c) COMPOSITION.—The Commission shall be composed of—

(1) the Assistant Secretary for Health;

(2) the Administrator of the Health Care Financing Administration;

(3) the Assistant Secretary for Defense for Health Affairs;

(4) the Chief Medical Director of the Department of Veterans Affairs;

(5) the Commissioner of the Bureau of Labor Statistics of the Department of Labor;

(6) a representative of the National Center for Education Statistics of the Department of Education;

(7) a representative of the Bureau of Health Professions, Health Resources and Services Administration to be appointed by the Secretary;

(8) five individuals appointed by the Secretary to represent allied health professionals, of which—

(A) two such individuals shall be representatives of allied health professionals who provide occupational, speech, respiratory or physical therapy services;

(B) two such individuals shall be health professionals who provide services in underserved areas or to underserved populations; and

(C) one such individual shall be a health professional who provides services to the elderly;

(9) five individuals appointed by the Secretary, including representatives of schools and programs of allied health, health care facility employers of allied health personnel, health insurers, and professional organizations representing the allied health professions;

(10) a professional knowledgeable about health occupations and professions and data policy to be appointed by the Secretary; and

(11) a representative of the general public to be appointed by the Secretary.

(d) DATE CERTAIN FOR APPOINTMENTS.—Not later than 90 days after the date of the enactment of the Health Professions Education Extension Amendments of 1992, the Secretary shall appoint the members of the Commission in accordance with subsection (c).

(e) REPORTS.—Not later than October 1, 1993, the Commission shall prepare and submit to the individual and entities described in subsection (b)(1) a progress report concerning the activities of the Commission. Not later than April 1, 1994, the Commission shall prepare and submit to such individuals and entities a final report.

(f) RESOURCES FOR COUNCIL.—The Secretary shall ensure that necessary resources are made available to implement the provisions of this section.

(g) TERMINATION.—The Commission shall terminate 60 days after the submission of the final report required under subsection (e).

SEC. 303. STUDY REGARDING CLINICAL LABORATORY TECHNOLOGISTS FOR MEDICALLY UNDERSERVED AND RURAL COMMUNITIES.

(a) IN GENERAL.—With respect to the shortage of clinical laboratory technologists, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study for the purpose of—

(1) determining whether there are special or unique factors affecting the supply of clinical laboratory technologists in medically underserved and rural communities; and

(2) assessing alternative routes for certification of the competence of individuals to serve as such technologists, with consideration of the role of entities providing such certifications.

(b) DATE CERTAIN FOR REPORT.—Not later than October 1, 1993, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as result of the study.

SEC. 304. RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as amended by title VI of Public Law 102-321, is amended by adding at the end the following part:

"PART E—MISCELLANEOUS PROGRAMS

"SEC. 1251. RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of planning and developing approved residency training programs in emergency medicine.

"(b) IDENTIFICATION AND REFERRAL OF DOMESTIC VIOLENCE.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that training programs under subsection (a) will provide education and training in identifying and referring cases of domestic violence.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $400,000 for each of the fiscal years 1993 through 1995.".

SEC. 305. CERTAIN CLINICAL TRAINEESHIPS.

Section 303(d)(2) of the Public Health Service Act (42 U.S.C. 242a(d)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" after the comma at the end of subparagraph (C); and

(3) by inserting after subparagraph (C) the following subparagraph:

"(D) in a Federal or State correctional facility,".

SEC. 306. SPECIAL CONSOLIDATED LOAN PROGRAM.

(a) IN GENERAL.—Section 428C of the Higher Education Act of 1965 (20 U.S.C. 1078-3) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) SPECIAL PROGRAM AUTHORIZED.—

"(1) GENERAL RULE AND DEFINITION OF ELIGIBLE STUDENT LOAN.—

"(A) IN GENERAL.—Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) for the consolidation of eligible student loans.

"(B) APPLICABILITY RULE.—Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

"(C) DEFINITION.—For the purpose of this subsection, the term 'eligible student loans' means loans—

"(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4); and

"(ii) made under subpart I of part A of title VII of the Public Health Service Act.

"(2) INTEREST RATE RULE.—

"(A) IN GENERAL.—The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

"(B) DETERMINATION OF THE MAXIMUM INTEREST RATE.—For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

"(C) PUBLICATION OF MAXIMUM INTEREST RATE.—The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination.

"(3) SPECIAL RULES.—

"(A) NO SPECIAL ALLOWANCE RULE.—No special allowance under section 438 shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

"(B) NO INTEREST SUBSIDY RULE.—No interest subsidy under section 428(a) shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

"(C) ADDITIONAL RESERVE RULE.—Notwithstanding any other provision of this Act, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

"(D) INSURANCE RULE.—Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance fund established under section 710 of the Public Health Service Act.

"(4) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.".

(b) TECHNICAL AMENDMENT.—Section 428(e) of the Higher Education Act of 1965 (as redesignated by subsection (a)) is amended by striking "1992" and inserting "1997".

(c) EFFECTIVE DATE.—The amendments made by this section take effect 60 days after the date of enactment of this Act.

SEC. 307. NATIONAL ADVISORY COUNCIL ON MEDICAL LICENSURE.

(a) ADVISORY COUNCIL.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish an advisory council to be known as the "National Advisory Council on Medical Licensure".

(2) DUTIES.—

(A) ADVICE.—The Council shall provide advice to the Secretary regarding the operation of the system established by the American Medical Association for the purpose of verifying and maintaining information regarding the qualifications of individuals to practice medicine, and advice regarding the establishment and operation of any similar system.

(B) ACTIVITIES.—In carrying out subparagraph (A), the Council shall—

(i) monitor and review the operation of the private credentials verification system and develop recommendations regarding methods by which the system can be improved, and make recommendations for the establishment of nondiscriminatory policies and practices for the operation of the system;

(ii) determine to what extent the system has expedited and otherwise improved the efficiency and equitable operation of the process in the States for licensing individuals to practice medicine who previously have been licensed by another State (commonly known as licensure by endorsement); and

(iii) review the policies and practices of the States (including any relevant laws) in licensing international medical graduates and in licensing domestic medical graduates, and determine the effects of the policies.

(3) COMPOSITION.—

(A) IN GENERAL.—The Council shall be composed of 15 voting members selected in accordance with subparagraphs (B) and (C).

(B) HEALTH RESOURCES AND SERVICES ADMINISTRATION.—The Secretary shall designate one official or employee of the Health Resources and Services Administration to serve as a member of the Council. The official or employee so designated shall be a graduate of a medical school located in the United States.

(C) APPOINTMENTS.—From among individuals who are not officers or employees of the Federal Government, the Secretary shall, subject to subparagraph (D), make appointments to the Council as follows:

(i) One individual from an organization representing State authorities that license individuals to practice medicine.

(ii) One individual representing a national organization that represents practicing physicians in the United States.

(iii) One individual representing an organization in the United States that tests international medical graduates regarding medical knowledge.

(iv) One individual representing an organization in the United States that tests individuals who are graduates of medical schools located in the United States regarding medical knowledge.

(v) One physician representing one or more medical schools located in the United States.

(vi) One individual who is a representative of the private credentials verification system.

(vii) One individual who is a graduate of a medical school located in the United States, who has been licensed to practice medicine by a State and has been so licensed by such State for a continuous period of at least 20 years, and who has applied for and received licensure by endorsement during the 5-year period ending on the date of the enactment of this Act.

(viii) One individual who is a graduate of a medical school located in the United States and who represents a State authority that licenses individuals to practice medicine, which State either has a significant number of practicing physicians who are international medical graduates or has a significant shortage of physicians.

(ix) One individual who is an international medical graduate and who represents a coalition representing such graduates.

(x) One individual who is an international medical graduate and who is a native of the United States.

(xi) One individual who is a native of a country located in southern or eastern Asia (including southern or eastern Asian islands) and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

(xii) One individual who is a native of a European country or of Australia or New Zealand and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

(xiii) One individual who is a native of a Latin American or Caribbean country and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

(xiv) One individual who is a native of a country located in sub-Saharan Africa and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

At least one member appointed by the Secretary under this subparagraph shall be a physician who is practicing in a medically underserved community, as defined in section 799 of the Public Health Service Act. A physician may serve on the Council only if the physician is licensed by one or more States to practice medicine.

(D) CONSULTATION.—The Secretary shall make the appointments described in subparagraph (C) only after consultation with relevant organizations and coalitions.

(4) CHAIR.—From among the members appointed under paragraph (3)(C), the Council shall designate an individual to serve as the chair of the Council.

(5) DURATION.—The Council shall continue in existence until the submission of the report required under paragraph (7), or not later than September 30, 1995, whichever is earlier.

(6) INTERIM REPORT.—Not later than September 30, 1993, the Council shall submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, an interim report describing the findings and recommendations of the Council pursuant to the duties established in paragraph (2). The Secretary shall provide a copy of the report to the private credentials verification system.

(7) FINAL REPORT.—

(A) IN GENERAL.—Not later than September 30, 1995, the Council shall prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a final report that shall include recommendations regarding activities conducted pursuant to paragraph (2), that shall include a determination as to whether the private credentials verification system is operating with a reasonable degree of efficiency and whether the policies and practices of the system are nondiscriminatory.

(B) RECOMMENDATIONS.—If the Secretary determines that the private credentials verification system fails to meet either of the criteria with respect to the determination described in subparagraph (A), the Secretary, in consultation with the Council and relevant organizations, shall make a recommendation concerning the establishment of an alternative private system and concerning the specifications for such a system as described in paragraph (2)(B).

(b) STUDY OF STATE LICENSURE PROCESS.—

(1) IN GENERAL.—With respect to the licensure by the States of individuals to practice medicine, the Secretary, in consultation with the Council, shall conduct a study of not less than 10 States for the purpose of determining—

(A) the average length of time required for the States involved to process the licensure applications of domestic medical graduates and the average length of time required for the States to process the licensure applications of international medical graduates, and the reasons underlying any significant differences in such times; and

(B) the percentage of licensure applications from domestic medical graduates that are approved and the percentage of licensure applications from graduates of international medical schools that are approved, and the reasons underlying any significant differences in such percentages.

(2) REPORT.—Not later than September 30, 1994, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the findings made as a result of the study required in paragraph (1) for the fiscal year.

(c) DEFINITIONS.—For purposes of this section:

(1) COUNCIL.—The term "Council" means the National Advisory Council on Medical Licensure established in subsection (a)(1).

(2) DOMESTIC MEDICAL GRADUATE.—The term "domestic medical graduate" means an individual who is a graduate of a medical school located in the United States or Canada.

(3) INTERNATIONAL MEDICAL GRADUATE.—The term "international medical graduate" means an individual who is a graduate of a medical school located in a country other than the United States or Canada.

(4) MEDICAL SCHOOL.—The term "medical school" means a school of medicine or a school of osteopathic medicine, as such terms are defined in section 799 of the Public Health Service Act.

(5) NONDISCRIMINATORY.—The term "nondiscriminatory", with respect to policies and practices, means that such policies and practices do not discriminate on the basis of race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation.

(6) PRIVATE CREDENTIALS VERIFICATION SYSTEM.—The term "private credentials verification system" means the system described in subsection (a)(2)(A) and established by the American Medical Association.

(7) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(8) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) NECESSARY RESOURCES.—The Secretary shall ensure that necessary resources are made available to implement the provisions of this section.

SEC. 308. REQUIRED ASSURANCES REGARDING BLOODBORNE DISEASES.

With respect to awards of grants or contracts under title VII or VIII of the Public Health Service Act, the Secretary of Health and Human Services may make such an award for the provision of traineeships only if the applicant for the award provides assurances satisfactory to the Secretary that all trainees will, as appropriate, receive instruction in the utilization of universal precautions and infection control procedures for the prevention of the transmission of bloodborne diseases.

SEC. 309. STUDY ON EFFECTIVENESS OF HEALTH PROFESSIONS PROGRAMS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the programs carried out under titles VII and VIII of the Public Health Service Act (as amended by this Act) for the purpose of determining the effectiveness of such programs in—

(1) increasing the number of primary care providers (physicians, physician assistants, nurse midwives, nurse practitioners and general dentists), nurses and allied health personnel;

(2) improving the geographic distribution of health professionals in medically underserved and rural areas; and

(3) recruiting and retaining as students in health professions schools individuals who are members of a minority group.

(b) CERTAIN REQUIREMENTS.—The study conducted under subsection (a) shall determine—

(1) whether funding under title VII of the Public Health Service Act has increased the number of primary care practitioners (family medicine, general internal medicine, general pediatrics, general dentistry, and physician assistants) in medically underserved communities (as defined in section 799 of such Act);

(2) whether or not funding under such title VII has increased the number of allied health professionals in medically underserved or rural communities;

(3) whether or not funding under title VIII of such Act has increased the number of nurses in medically underserved or rural communities;

(4) whether or not the various mechanisms under such titles VII and VIII (such as scholarships, fellowships, traineeships, loan repayment programs, project grants, and education centers) have been effective in producing health care professionals who work or practice in medically underserved and rural communities and the relative impact or effectiveness of each mechanism;

(5) the duration of service in medically underserved communities (as defined in section 799 of such Act) of health professionals whose training was funded by such titles or who received financial incentives under such titles to practice in such communities;

(6) the geographic distribution of former trainees under such titles who are practicing in medically underserved communities (as so defined);

(7) with respect to the programs of such titles whose purpose is improving the health of individuals who are members of minority groups, whether such programs have had a significant impact on the number of such individuals entering the health professions; and

(8) such other such factors as may be relevant to the reauthorization of such title VII or VIII.

(c) REPORT.—Not later than January 1, 1994, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report describing the findings made as a result of the study and making such recommendations regarding the programs carried out under titles VII and VIII of the Public Health Service Act as the Comptroller General determines to be appropriate.

SEC. 310. DELAYED APPLICABILITY OF CERTAIN PROVISIONS.

Notwithstanding any other provision of law, section 403A(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)(1)) shall not apply with respect to any requirement of any State or political subdivision regarding maple syrup until September 1, 1994.

SEC. 311. CERTAIN APPLICATION PROCEDURES.

Section 633 of Public Law 100-607 (42 U.S.C. 295g-10a) is repealed.

SEC. 312. CERTAIN PROJECTS.

(a) IN GENERAL.—Section 205(a)(2)(B) of Public Law 102-321 is amended by adding at the end the following clause:

"(iii) In the case of amounts reserved under this subparagraph for programs of services in the city of San Francisco, California, the Secretary shall ensure that such amounts are administered by such city and shall authorize the city to select providers for such programs and determine the allocation of such payments among the providers.".

(b) CONFORMING AMENDMENT.—Section 205(a)(2)(B)(i) of Public Law 102-321 is amended—

(1) in subclause (I), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(2) in subclause (II), by inserting ", subject to clause (iii)" before the period.

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
BILL RICHARDSON,
NORMAN LENT,
TOM BLILEY,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

INTRODUCTION TO STATEMENT OF MANAGERS

The Conference agreement provides for the reauthorization of health professions programs authorized by titles VII and VIII of the Public Health Service Act. In contrast with previous reauthorization periods, the Conferees have restructured these programs and related authorization levels to place greatest emphasis upon activities that will improve health care access and delivery by increasing the training of health care providers most important to the provision of primary care services, particularly in medically underserved areas.

The Conference agreement represents the first comprehensive reform of the Federal health professions and nursing education authorities since their inception. The agreement reflects the consensus of the Conferees that especially at a time when Federal funding for these programs is frozen or declining, steps must be taken to prioritize the allocation of Federal funds. Therefore, the authorization levels have been constrained and program priorities specified.

The Conferees note that while Federal funding for programs under titles VII and VIII has sharply declined in both real and constant dollars since the 1970's, the program priorities have remained relatively unfocused. In an era of declining Federal resources available to health professions training, Congress must establish clearer priorities for the distribution of limited funding. The Conference agreement directs the Secretary to give preference to those health professions training programs that have demonstrated success in the placement of graduates in medically underserved areas or to individuals who are committed to pursuing careers in primary care.

The Conferees believe Federal support for health professions training, with renewed emphasis on setting priorities that reflect important health care needs, continues to play an important role in the overall goal of expanding the numbers of mid-level health professionals and in increasing the percentage of medical and dental school graduates pursuing careers in primary care medicine and general dentistry.

Most physicians continue to select specialty careers. This trend has accelerated with declining match rates for primary care residencies in recent years. The Conferees have singled out programs in family medicine, general internal medicine, and general pediatrics, and training of physician assistants, nurse practitioners, and nurse midwives for priority in the allocation of federal assistance because these professions will play a pivotal role in reaching the national goal of making access to primary health care more widely available and of reducing unnecessary health care costs.

The Conference agreement restructures the Health Professions Student Loan program to give priority to osteopathic and allopathic medical students who will enter postgraduate residency training programs that lead to careers in family practice, general internal medicine or general pediatrics.

The Conference agreement restructures the Health Education Assistance Loan Program (HEAL). Increasing numbers of health professions students are dependent on the federal government for assistance to finance their education. In 1976, the Health Education Assistance Loan Program was created to provide insurance so that loan funds could be made available to graduate students in high-tuition health professions schools. The program was extended to assure that any American, regardless of his or her economic status, could have access to a health professions education. Since its inception, HEAL has insured more than 300,000 loans totaling over $2.7 billion in loan principal to students in 11 health professions.

Unfortunately, problems have existed in the HEAL program that must be addressed. Default rates have continued to rise. The program was intended to be self-financing through an up-front loan origination fee charged to borrowers. However, the fee is now insufficient to cover the costs of the yearly defaults, and Congress has appropriated funds for this purpose in the last two fiscal years ($25 million in fiscal year 1991 and $48 million in fiscal year 1992). The Conference agreement makes significant changes in the HEAL authority that place greater responsibility on health professions schools, lenders, holders and on borrowers; requires payments of premiums, by both schools and borrowers, that are based on default rates; and authorize the Secretary to bar participation in the HEAL program by schools that continue to have excessive de-

fault rates. The Conferees believe that these and other reforms will reduce the student default rate and restore credibility to the program.

For each of the sections of title VII of the Public Health Service Act, as amended by section 102 of the Conference agreement, the following table indicates the former section number of the provision involved, if any:

Revised section No.	Former section No.
701	727(a).
702	728.
703	729.
704	730.
705	731.
706	732.
707	733.
708	None.
709	None.
710	734.
711	735.
712	736.
713	737A.
714	738.
715	739.
719	737.
720	727(b)
721	740.
722	741.
723	None.
724	740(c); 742(c).
725	744.
726	745.
727	746.
728	743.
735	742(b).
736	758.
737	760.
738	761.
739	782.
740	787.
746	781.
747	786.
748	784.
749	785.
750	788(d).
751	788(e).
752	790.
761	792.
762	790A.
763	788(c); 793.
765	None.
766	797.
767	796.
771	791A.
776	788A.
777	789.
778	799A.
781	None.
782	None.
791	None.
792	708.
793	794.
794	704.
795	None.
798(a)	None.
798(b)	707.
798(c)	710.
798(d)	706.
798(e)	705.
798(f)	709.
799	701.

TITLE I—HEALTH PROFESSIONS EDUCATION

HEALTH EDUCATION ASSISTANCE LOANS

Congress is increasingly concerned about the default rates under the Health Education Assistance Loans program (HEAL) exceeding the capacity of the student loan insurance fund to cover the costs of defaults. In fiscal year 1992, the House and Senate Appropriations Committees provided $48 million to cover losses on federally guaranteed HEAL loans. In providing these funds, the Appropriations Committees expressed their continuing concern about the high rate of defaults in the HEAL program and called upon the authorizing committees to develop legislation to replace or substantially modify the HEAL program to reduce the number of defaults.

The Conferees find the current level of loan defaults unacceptable. The Conference agreement responds to the call for substantive reform of the HEAL program and includes new provisions which will enhance the solvency of the student loan insurance fund and reduce student default rates.

For example, in an effort to reduce the number of defaults by chiropractic borrowers, the Conference agreement in Section 705 provides one year of deferment for borrowers who have graduated from a college, school, or university of chiropractic. The Conferees are hopeful that by extending the period of forbearance, chiropractic borrowers will have sufficient time to become licensed and establish practices and therefore avoid default within the first year.

SCOPE AND DURATION OF THE LOAN INSURANCE PROGRAM

Section 702 authorizes that the Federal loan insurance program will not exceed $350 million for fiscal year 1993, $375 million for fiscal year 1994 and $425 million for fiscal year 1995.

RISK-BASED PREMIUMS

The Conferees are aware that HEAL default rates, whether measured on an aggregated or annual cohort basis, have tended to vary by health profession and by institution. For example, the cumulative default rate for students at allopathic medical schools is 4.9%, while that for students at chiropractic schools is 10%. For the cohort of loans originated in 1984, the estimated default rate for osteopathic students is 7.9%, while that for chiropractic students is 18.9%. Under current law, all HEAL borrowers pay an 8% default insurance premium regardless of their relative risk of default. As a result, students at low risk of default (those attending schools with default rates less than 5%) are subsidizing those at higher risk of default. Under the provisions of this Conference agreement, each institution's default record will be used to determine the level of the student's premium and for levying an institution default penalty fee.

Section 708 provides that HEAL loans made on or after January 1, 1993, be assessed a risk-based premium based on the default rate of the eligible institution. There are four categories: low-risk, medium risk, high-risk, and ineligible for the program.

The low-risk category includes institutions whose default rates do not exceed 5 percent. Borrowers would be required to pay a risk premium of 6 percent.

The medium-risk category includes institutions whose default rates exceed 5 percent but are less than 10 percent. Borrowers attending these institutions will be required to pay a risk premium of 8 percent and the institution would be required to pay a risk premium of 5 percent.

The high-risk category includes institutions whose default rate is in excess of 10 percent but not exceeding 20 percent. Borrowers attending these institutions will be required to pay a risk premium of 8 percent and the institution will be required to pay a risk premium of 10 percent.

In addition, institutions in the medium- and high-risk categories are required to develop a default reduction management plan. The purpose of this planning provision is to ensure that higher risk schools make a good faith effort and have in place a set of procedures to minimize student defaults. The requirements for a default management plan would be developed by the Secretary.

Institutions with default rates exceeding 20 percent will be ineligible to participate in the program, except as outlined in section 708(d). Historically black colleges or universities will be exempt from the ineligibility requirement for a 3-year period beginning with the effective date of this section. Borrowers at those institutions will be required to comply with all guidelines applicable to institutions in the high-risk default category.

The Conference agreement also prohibits institutions required to pay risk premiums from charging different tuition or fees to HEAL borrowers than to non-HEAL borrowers.

Section 708(c) requires lenders to reduce the risk premium by 50 percent for eligible borrowers who have a credit worthy parent or other responsible party co-sign the loan note.

Section 708(d) authorizes administrative waivers. The Secretary will grant an institution a hearing to consider mitigating circumstances prior to making that institution ineligible to participate in the program. The Secretary may grant an institution a waiver of the requirements of the risk categories only if the Secretary determines that the default rate is not an accurate indicator because the volume of loans has been insufficient. for example, some schools of public health may have default rates that exceed 30%. However, since these default rates are based on a small number of loans (in some cases, only two to five loans) they may be a misleading measure of the institution's ability to control defaults.

Section 708(e) allows institutions to reduce their risk category by paying off the outstanding principal and interest owed by their students.

EASING BURDEN ON BORROWERS

The Conferees are sensitive to the fact that HEAL is an expensive way to finance an education and the conference agreement contains changes aimed at easing the burden on the students and reducing the chances that borrowers will default on their loans. Currently, students pay an 8% up-front fee and are charged an interest rate that may not exceed 3 percent over the Treasury bill rate. The interest rate is compounded semi-annually. The following is a possible scenario: a medical student borrows $80,000 in principal at an average interest rate of 12 percent and repays it over the entire 25-year repayment period. The student would repay $642,000 ($80,000 of the original principal and $562,000 in interest).

The Conference agreement includes a number of provisions intended to alleviate such situations. Section 705(b) requires that the interest rate on HEAL loans be compounded annually, rather than semi-annually. Section 705(e) provides that extensions of time prior to the beginning of loan repayment for purposes of forbearance not be included in the 25-year total loan repayment period. Section 705(f) requires that lenders and holders offer borrowers graduated loan repayment schedules during the first 5 years of loan repayment, based on the borrower's debt-to-income ratio.

Section 706 is revised to authorize loan consolidation but prohibits federal subsidy of interest rates on the HEAL portions of any consolidated loan. The Conference agreement also requires that lenders or loan holders provide full disclosure to the borrower concerning the advantages and disadvantages of loan consolidation.

MINIMIZING HEAL DEFAULTS

The Conferees expect that schools, lenders, and holders to assume and share the responsibility for minimizing HEAL defaults. Consistent with reforms recently enacted in the Guaranteed Student Loan program, Section 707 requires the Secretary to establish performance standards for lenders and holders of loans including fees to be imposed for failing to meet such standards. Section 705(a)

authorizes lenders to obtain appropriate demographic information from borrowers including racial or ethnic background and provide this information to the Secretary. Section 705 (a)(2)(H) authorizes institutions or training programs attended by HEAL borrowers to assist in the collection of loans that become delinquent.

The Conferees note that current law already provides two methods to collect from defaulters. The first authorizes the Secretary to offset Medicare reimbursement for services rendered by HEAL defaulters. The Conferees urge the Secretary to take immediate action to ensure that this authority is used to increase HEAL collections. The second permits the Federal government to pursue a claim against a defaulter.

Section 707 authorizes any United States attorney to register any State court judgment obtained by a lender or holder with the Federal Courts for enforcement and provides that obligations to repay HEAL loans will be enforceable without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced. Section 707(f) provides that any amounts recovered from HEAL defaulters be deposited into the student loan insurance fund.

Section 715 includes additional requirements on institutions and lenders: (1) tuition and fees charged to HEAL borrowers may not exceed the tuition and fees for non-HEAL borrowers; (2) institutions are required to provide detailed information on borrowers; (3) institutions are required to withhold all services including academic transcripts, financial aid transcripts, and alumni services from borrowers who have defaulted except, in the case of bankruptcy; and (4) lenders are required to offer borrowers a variety of prepayment options including fixed-rate, graduated repayment with negative amortization, and income-dependent payments for 5 years followed by level monthly payments. This section also provides that at the beginning of each academic year, each participating institution is required to conduct a workshop for all HEAL borrowers.

OFFICE FOR HEALTH EDUCATION ASSISTANCE LOAN DEFAULT REDUCTION

Section 709 establishes an Office for Health Education Assistance Loan Default Reduction within the Division of Student Assistance of the Bureau of Health Professions of the Health Resources and Services Administration (HRSA). The Conferees recognize that many of the HEAL loan tracking and debt collection functions are dispersed within HRSA and the Department of Health and Human Services and believe that consolidation of these existing functions into a single office will improve the management of and return on HEAL debt collection activities.

The Conferees expect that the new Office will undertake a thorough review of current collection requirements and recommend additional steps to improve loan servicing and collection where warranted. The Office will carry out activities designed to reduce loan defaults. The functions of the Office are specified in the Conference agreement. Starting March 31, 1993, the Office is required to submit each year a report to Congress detailed activities of the Office, including information on institution-specific default rates and default rates of lenders and holders participating in the program.

The Office will also compile and publish in the Federal Register a list of borrowers who have defaulted on their HEAL loans. In addition, the Office will send notices that the borrower has defaulted to Federal agencies, schools, professional and specialty associations, State licensing boards, hospitals and other relevant organizations which the borrowers may be associated.

Section 709 authorizes the allocation of up to $1 million annually for the Office from funds in the student loan insurance fund for the functions and activities of the Office. This source of additional funding will facilitate the addition of seven full-time equivalent positions to improve debt collection and reduce the number of defaults. The funds allocated from the insurance fund are to be used to expand program activities and not to supplant funds appropriated for current activities.

DEFINITIONS

Section 719 is amended by the Conference agreement to include definitions for "eligible lender" and "default rate." The "default rate" would be calculated on loans entering repayment status after April 7, 1987, for which insurance claims have been paid, excluding claims paid as a result of death or disability, loans that have been brought into repayment for a period of not fewer than 12 consecutive months or the equivalent, or amounts not recoverable because of bankruptcy. The Conference agreement defines an academic institution as an eligible lender if the institution became a lender under this subpart prior to September 15, 1992. This action is required by the escalating number of defaults and the need to impose greater accountability on academic institutions that are lenders.

PRIMARY CARE LOAN PROGRAM

Section 723 of the conference agreement establishes a primary care loan program, as a component of the health professions student loan program, under which schools of allopathic and osteopathic medicine may make loans to students who commit themselves to careers in family medicine, general internal medicine, general pediatrics, preventive medicine, or osteopathic general practice. If the borrower fails to enter and complete a primary care residency and to practice in a primary care field, the loan balance will be recomputed from the date of issuance at an interest rate of 12 percent per year, compounded annually. The conference agreement also establishes performance standards for schools regarding the proportion of graduates in primary care, with specific penalties assessed if schools fail to maintain such standards. The Conference agreement also requires participating schools to prepare annual reports concerning the operation of the program and include data concerning current training and practice status of graduates who were in their fourth postgraduate year at that time.

The health professions student loan program provides the single largest source of Federal low interest loan funds for students attending allopathic and osteopathic schools. The Conferees believe that here, as with other Title VII programs, Federal support of medical education should be targeted in a manner that will provide consistent incentives to encourage more young men and women to pursue careers in primary care. The success of health care reform requires that the number of medical students pursuing a primary care career increase. Particularly, in light of fiscal constraints on Federal support for health professions education it is no longer appropriate to provide Federal funds for the subsidy of medical specialties education. Although the Conference agreement is just one small step in achieving needed reform in the production of primary care providers, it represents an important beginning.

PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUND

The Conference agreement extends through fiscal year 1993 the authorization of appropriations for the scholarship program for exceptionally financially needy students and the Health Careers Opportunity Program. The authorization is limited to permit Congress time to consider a long reauthorization in the context of reauthorizing other health professions programs for disadvantaged students which expire at the end of fiscal year 1993.

SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

Section 736 is renamed Scholarships for Students with Exceptional Financial Need to reflect the working title of these scholarships. The substantive changes made to the program in the conference agreement include limiting scholarship grants only to schools of allopathic and osteopathic medicine, and dentistry and adding a new requirement that students who receive scholarship assistance under this program enter into obligation for service as outlined in section 795, a new section dealing with repayment. The authorization for this program is extended through fiscal year 1993. The Conferees intend that schools of pharmacy, optometry, veterinary medicine, and podiatric medicine continue to receive assistance under the disadvantaged student assistance program authorized in section 740. The Conference agreement authorizes $11 million for fiscal year 1993.

SCHOLARSHIPS FOR DISADVANTAGED STUDENTS

The Conference agreement requires that schools give preference for scholarships to students who are from disadvantaged backgrounds and for whom the costs of attending the school would constitute a severe financial hardship.

LOAN REPAYMENT AND DISADVANTAGED FACULTY DEVELOPMENT

Section 738 of the Conference agreement clarifies who is eligible to participate in the loan repayment program and the amount of payments made to the individual. In addition, this provision establishes a Disadvantaged Faculty Development Fellowship program. The intent of this program is to increase the number of faculty members of disadvantaged backgrounds, including racial and ethnic minorities, in the health professions. The program requires matching funds from the institution to ensure that the institution has a commitment to identify, recruit, and retain individuals from disadvantaged backgrounds who have the potential for teaching, administering programs, or conducting research as faculty members. The authorization level for this program is $4 million for fiscal year 1993.

CENTERS OF EXCELLENCE

Section 739 of the Conference agreement clarifies that schools of osteopathic medicine are eligible grantees for this program.

Given the availability of a large increase in funding for this section that was unforeseen at the time of the last authorization, the Conference agreement includes a number of revisions that preserve the original intent of the program. The allocation of funds language is amended to clarify that the first $12 million appropriated shall go to the four original recipients under this section: Meharry Medical College Schools of Medicine and Dentistry, Xavier University Col-

lege of Pharmacy, and the Tuskegee University School of Veterinary Medicine.

Of the amounts available after compliance with the above requirement, the Secretary is directed to make available 60 percent of funds for Hispanic and Native American Centers of Excellence and 40 percent to "Other" Centers of Excellence. The Conference agreement clarifies that it was not the intent of the original legislation to create dozens of centers around the country funded at levels not much higher than the average Health Careers Opportunity Program award. The very name of the program, Centers of Excellence, implies a few well-funded centers that will attract and focus resources and expertise and serve as models to other academic institutions. The Conferees have set the minimum award amount for new and continuing centers under this section at $500,000 starting in FY93. Authorization levels remain the same as under current law.

EDUCATIONAL ASSISTANCE TO STUDENTS FROM DISADVANTAGED BACKGROUNDS

Section 740 of the Conference agreement requires the Secretary to ensure that Health Careers Opportunity Program (HCOP) grants and contracts are equitably distributed to reflect the changing demographics and geographic location of individuals from disadvantaged backgrounds, and that services and activities are equitably allocated among various racial and ethnic populations. The Conferees support the language in the House Committee report for H.R. 3508 describing the current distribution of participation among different racial and ethnic groups and the recommendations made to ameliorate this inequity. The Conferees offer as guidance to the Secretary a definition of an individual from a disadvantaged background as a U.S. citizen who (1) comes from a family with an annual income at or below the poverty level according to family size as defined by the United States Bureau of the Census; or (2) comes from a social or educational background that has inhibited such individual from obtaining the knowledge, skills, and abilities necessary to enroll in and graduate from a health career training program. The Conference agreement authorizes $31.5 million for fiscal year 1993.

AREA HEALTH EDUCATION CENTERS

Section 746 of the Conference agreement makes substantive changes to the Area Health Education Centers (AHEC) and Health Education Training Centers (HETC) programs, incorporating both House- and Senate-passed amendments with some technical modifications. The matching requirement for State-supported AHEC's is changed to require a non-Federal contribution of 50 percent starting in the first year. The existing requirement for participation of a dental school, if there is one affiliated with the medical school's university, is modified to provide also for the participation of a program in clinical psychology, clinical social work, or marriage and family therapy, if there is one affiliated.

For the HETC program, the agreement broadens the current authority to address health personnel needs in "other high-impact urban and rural areas," including establishing HETCs in those areas, and adds Florida to the list of eligible border areas.

The Conference agreement authorizes $25 million for the AHEC program in each of fiscal years 1993–1995. Of this amount, not more than 20 percent could be obligated to special AHEC initiatives undertaken by the original AHEC programs. In fiscal year 1993, any funds appropriated in excess of $19.2 million ($18.7 million in fiscal year 1994) are to be used for the State-supported AHEC program, and of these amounts, no more than 10 percent is to be used to fund demonstration projects described in section 746 under the new program. The Conference agreement authorizes $5 million for the HETC program in each of fiscal years 1993–1995.

FAMILY MEDICINE

Section 747 of the Conference agreement consolidates the funding authorization for department and residency training programs and makes substantive changes to give the Secretary greater discretion in allocating funds between Department and Residency program. The Conferees note that U.S. medical school graduates are entering residency training programs in the primary care specialties in decreasing numbers; over the last seven years, there has been a significant downturn in the number of medical school graduates entering family practice residencies; and since 1986 there has been a 29% reduction in the number of fourth year medical students choosing family practice programs through the National Resident Matching Program (NRMP). The failure of medical students to choose residency training programs in primary care specialities is not based on the unavailability of residency slots in these specialities. Data from the 1992 NRMP "match" show that only 56 percent of the first-year residency positions offered in family practice were filled by U.S. graduates. When graduates of foreign medical schools are included, the percentage of filled positions was 68 percent.

The Conferees believe that all schools of allopathic and osteopathic medicine should have departments of family medicine. The Conference agreement reflects the Conferees' strong support for increasing efforts to establish new or significantly expanded departments of family medicine. It is increasingly clear that only through the establishment of such administrative entities within medical schools will the number of providers increase to meet the needs both of medically underserved communities and national health care reform. In this regard, the Conferees specify that not less than 20 percent of annual appropriations under the consolidated family medicine authority be allocated to departments which propose to establish new departments or significantly expand existing departments. This policy also reflects a relative redirection of funding priorities to programs that increase the number of students entering family medicine. The Conference agreement authorizes $54 million for each of the fiscal years 1993–1995.

GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

Section 748 of the conference agreement makes substantive changes to the programs for training, traineeships, and fellowships in General Internal Medicine and General Pediatrics. The Conference agreement adds a provision to support training of undergraduate medical students and practicing physicians in the specialties of general internal medicine and general pediatrics. The Conferees believe that exposure of students to primary care role models in community or ambulatory settings, and clerkships or rotations in primary care will have a positive impact on their career choice, and selection of primary care residencies and, subsequently, on primary care specialty practice. In addition, the Conferees recognize need for primary care faculty development programs, like the program at the Massachusetts General Hospital, that produce our future primary care teachers and role models. The Conference agreement authorizes $25 million for each of fiscal years 1993–95.

DENTISTRY

Section 749 includes only one substantive change by including an authorization for inclusion of innovative, non-traditional models in the general practice of dentistry. The program is authorized for $6 million for each of fiscal years 1993–95.

PHYSICIAN ASSISTANTS

Section 750 has been modified by the Conference agreement to authorize 10% of appropriated funds to be used for a faculty development program. The program is authorized for $9 million for each of fiscal years 1993–1995.

PODIATRISTS

Section 751 of the Conference agreement amends the program for primary care podiatric medical training to direct the Secretary to give preference to programs that provide training in a variety of community settings, including community-based clinics and long-term care facilities, and to programs that prepare students for practice in rural or underserved areas by training students in those settings. The program is authorized at $1 million for each of fiscal years 1993–1995.

PUBLIC HEALTH

This new subpart consolidates the three existing programs (Public Health Special Projects, Public Health Traineeships and Preventive Medicine Residencies) and a new program (Dental Public Health Residencies) under a single authorization of appropriations. The Conferees emphasize the equal importance of public health traineeships and the preventive medicine tracks in promoting the Healthy People 2000 Objectives and expect that at least 60 percent of the funds appropriated will be allocated for these activities. The program is authorized at $15.5 million for each of fiscal years 1993–1995.

Public health traineeships

Section 761 of the conference agreement makes substantive changes to the program of public health traineeships as follows. Individuals eligible for traineeships are individuals who are pursuing a course of study in which there is a severe shortage of health professionals, including the fields of epidemiology, environmental health, toxicology, nutrition, and biostatistics.

Public health special projects

Section 762 makes substantive changes to the program of Public Health Special Projects. Grants may be awarded to schools of public health to meet the costs of planning, developing, demonstrating, operating, and evaluating projects that further the goals established by Healthy People 2000 in the areas of preventive medicine, health promotion and disease prevention, to improve access and quality of public health services to medically underserved communities or to reduce cases of domestic violence.

The Conference agreement gives preference to schools that will establish or strengthen field placement for students in state, local and other public or nonprofit private health agencies or involve faculty and students in collaborative projects to enhance public health services to medically underserved communities. The Conferees are aware of several programs that have developed linkages to public or nonprofit private health agencies. For example, the Columbia University School of Public Health has strengthened their ties with the New York City

Health Department to improve the capacity of both entities to meet the objectives set forth in "Healthy People 2000". The University of Washington project forged significant linkages to the State Health Department and Portland Area Indian Health Service. These projects have been successful in providing students with an understanding of, and the ability to assess the strengths/weaknesses of the organizational structure, functions, and plans of local, state and regional public health agencies.

The Conferees considered expanding eligibility to include accredited graduate programs in public health. Most of the accredited graduate programs in public health are new and small, and they were established specifically to fill a geographic void where there was no school of public health. In many cases they serve disadvantaged population and concentrate on addressing the needs of medically underserved communities. Collectively they offer the same range of degrees and are equally committed to "Healthy People 2000 Objectives" in the areas of preventive medicine, health promotion and disease prevention, and improving access to quality of health care services in medically underserved communities. Not withstanding strong argument in favor of broadening the applicant pool, the Conferees agreed to defer expanding eligibility until the next reauthorization.

Training in preventive medicine and dental public health

Section 763 makes substantive changes to the program of grants for training in preventive medicine by adding authority to found a dental public health program. The Secretary may make grants to and enter into contracts with schools of allopathic and osteopathic medicine, public health, and dentistry to plan and develop new residency training programs, maintain or improve existing residency training programs, or provide financial assistance to residency trainees enrolled in such programs. Eligible schools must make available full-time faculty members with the appropriate training, and provide additional support from faculty trained in public health or other relevant specialties.

Authorization of appropriations

Section 765 is a new section that provides a single authorization of appropriations for carrying out sections 761, 762, and 763 in Subpart I of Part D. For these activities, there is appropriated $15.5 million in each of fiscal years 1993 through 1995. Not more than 40 percent of total appropriations shall go to Public Health Special Projects authorized in section 762.

ALLIED HEALTH TRAINEESHIPS AND SPECIAL PROJECTS

Sections 766 and 767 revise and extend the authorization of appropriations for allied health traineeships and special projects. Although historically only the special projects authority has received appropriations, the Conferees believe the provision of traineeships and other assistance designed to increase enrollment in allied health fields with critical shortages is an appropriate investment of limited health professions funding. The contribution of allied health professions to health reform becomes increasingly important with the growing sophistication of medical technology and the effect that an aging population has on demand for skilled health providers who are not physicians, nurses, or dentists.

In addition, the agreement lifts the restriction of current law which limited traineeship support to doctoral programs. The Conferees believe that individuals trained at the master's level can be effective educators. In view of the need to establish new or significantly expand training programs in such critical professions as physical and occupational therapy, the limited funds made available during this reauthorization period should be channeled into programs that will expand the number of educational opportunities available to students desiring to enter these professions.

The Conference agreement authorizes $5 million for each of the fiscal years 1993–1995 for the Traineeship program, and $5 million for each of the fiscal years 1993–1995 for the Special Projects program.

HEALTH ADMINISTRATION

Section 771 of the Conference agreement consolidates and makes substantive changes to programs for training health professionals in the field of health administration. The traineeships program has been modified to give preference to students who are committed to careers with public or nonprofit private entities requiring the skills of graduates of health administration programs.

The Conference agreement further requires that the Secretary give preference for Special Projects grants to applicants that demonstrate that not less than 25 percent of their graduates are working in medically underserved communities. Such grantees must demonstrate success in the recruitment and admission of students from medically underserved communities, that establish student training sites with public or nonprofit community-based providers of health care including community health centers, and emphasize employment with public or nonprofit private organizations. The Conference agreement further requires that all grants be peer reviewed. The intent of the Conferees is to ensure that grants are awarded to educational entities that develop or improve programs to prepare students for employment with public or nonprofit private health organizations.

The Conference agreement authorizes $2.5 million for health administration activities for each of fiscal years 1993 through 1995. Of the appropriated amounts in any fiscal year, not more than 30 percent shall be obligated for grants to programs of health administration to assist them in development or improvement of programs that prepare students for employment with the kinds of public or nonprofit entities described previously by training them in such settings.

HUMAN IMMUNODEFICIENCY VIRUS TRAINING

Section 776 includes the following substantive changes with respect to the program of HIV training for health professionals. In general, wherever references are made in current law to "acquired immune deficiency syndrome", these references are changed to "human immunodeficiency virus". The list of entities eligible to apply for grants is expanded to include "other public or private nonprofit health or educational entities" and in the new subsection (a)(1), the reference to "graduate programs of psychology" is replaced with "graduate programs in mental health practice", which includes clinical psychology, clinical social work, and marriage and family therapy. In addition, the Conferees make clear that training of clinical practitioners is an eligible use of funds under this program. The program is authorized for $25 million for each of fiscal years 1993–1995.

Section 776(b) authorizes $7 million for each of the fiscal years 1993–1995 for the dental AIDS health services program. While funds provided for this program fall short of meeting the unreimbursed costs of these dental education institutions, this authority serves as a type of "matching fund" that recognizes the expenditures incurred by dental programs in providing clinical training to students or general dentistry residents who are providing dental care to AIDS/HIV patients.

GERIATRICS

Section 777 includes substantive changes to the program of grants for geriatric education centers and geriatric training. The Conference agreement expands the list of eligible entities to include schools of nursing. The agreement allows for the full participation of geriatric psychiatry programs in the geriatric training program. The addition of authority to train geriatric psychiatrists and to base projects in a department of geriatric psychiatry reflects the reality that comprehensive geriatric care requires the involvement of the psychiatric profession, in particular those in the profession who specialize in geriatrics. Geriatric psychiatrists serve multi-faceted roles of consultant, diagnostician, and clinician to elderly patients suffering from organic as well as mental disorders.

The Conference agreement requires that dentists receiving assistance be committed to academic careers in geriatrics.

The Conference agreement authorizes the Secretary to make grants to schools and colleges of optometry for the purpose of providing support for projects to plan, develop and operate postgraduate geriatric training for optometrists, providing financial assistance to program participants, and establishing training affiliations with nursing homes, ambulatory care centers, senior centers, and other settings where elderly individuals live.

It is the intent of the Conferees that in awarding funds for geriatric education and training that special consideration be given to programs that provide training and continuing education to health care professionals (including allied health professionals) in the delivery of health and long-term care services to persons with Alzheimer's disease.

The geriatric programs of education centers and training are authorized at $17 million for each of fiscal years 1993–1995. The geriatric optometry program is authorized at $400,000 for each of fiscal years 1993–1995.

RURAL AREA PROJECTS

Section 778 extends the authorization of appropriations for the health care for rural areas program. The reference in subsection (c) to "programs of psychology" is replaced with a reference to "mental health practices", which includes graduate departments and programs of clinical psychology, clinical social work, and marriage and family therapy. The rules regarding administration of grants are expanded to include a limitation that precludes a grantee from supplanting existing program funds with other Federal funds awarded under this section. The program is authorized at $7 million for each of the fiscal years 1993–1995.

RESEARCH OF CERTAIN HEALTH PROFESSIONS ISSUES

Section 781 authorizes the Secretary to support research in the following areas: (1) the impact of student indebtedness on specialty choice and practice location and the reasons for the rising cost of medical education; (2) the impact of minority health professions programs on recruitment, retention, and practice choices of minority health personnel; (3) the effectiveness of investigations

and disciplinary actions by State licensing authorities; and (4) the specific actions that are necessary to increase the percentage of primary care physicians, and the number of mid-level primary care providers, graduating from health professions schools. In carrying out this section, the Secretary shall ensure that the project is focussed and the evaluation and findings are relevant to the charge outlined in the Conference agreement. The program is authorized at $4 million for each of the fiscal years 1993–1995.

CHIROPRACTIC DEMONSTRATION PROJECTS

Section 782 provides new authority for grants and contracts with accredited colleges, schools, and universities of chiropractic to develop training programs in which chiropractic providers and physicians collaborate to identify and provide effective treatment for spinal and lower-back conditions. Each application for an award under this new authority is required to be submitted to a peer review group for an evaluation of the merits of the proposal. At least two members of the peer review group must be chiropractors. The Conferees expect that existing peer groups, supplemented if necessary with new members who are chiropractors, would be used for these evaluations. The Secretary should not establish new peer review groups for evaluations of those projects. Not later than February 10, 1995, the Secretary is required to submit to the Senate Labor and Human Resources Committee and the House Committee on Energy and Commerce a comprehensive report summarizing the applications submitted, grants and contracts awarded, and the effectiveness of this program. The program is authorized at $1 million for each of the fiscal years 1993–1995.

PREFERENCES AND REQUIRED INFORMATION

Section 791 establishes funding preferences for qualified applicants who demonstrate a high placement rate of their graduates into practice settings that provide health services to residents of medically underserved communities or who demonstrate a significant increase in the placement of graduates into such settings. The intent of this provision is to provide an incentive for the development of programs that will train health professionals to meet the health service needs of medically underserved communities. The goals of this reauthorization are to increase the number of primary care providers and to provide the access to health services to residents of medically underserved communities. The Conferees encourage the Secretary to develop selection criteria that will insure that only the applicants with quality proposals would be approved.

To ensure that only quality proposals are funded, the Conference agreement specifies that preference not be given to applicants that score in the bottom twenty percent of approved applications.

The Conferees are aware of several programs that have outstanding records of training primary care providers and placing them in rural or medically underserved communities. For example, University of Minnesota School of Medicine at Duluth has achieved a great deal of success in training rural family physicians. At this institution more than 50 percent of all graduates have selected careers in family practice and more than 41 percent have chosen practice sites with a population fewer than 20,000. The Conferees expect that the Secretary will encourage other institutions to demonstrate a similar commitment.

The Conferees wish to emphasize that the definition of medically underserved community encompasses not only currently designated health professions shortage areas (HPSA) and populations served by existing community (CHC), migrant (MHC) or homeless health center but also communities and practice sites which may fit the standards for either of these designations, but which are not, in fact, so designated. One example of a situation in which such flexibility would apply would be a rural or urban community that meets the objective criteria necessary for designation as a HPSA, but which has not sought or received official designation as such from the Department. Another instance might be a church- or locally-run community primary care clinic which is not officially designated as a CHC or MHC, but which nevertheless has as its primary purpose the care of disadvantaged populations whose characteristics are equivalent to those served by CHCs or MHCs.

OBLIGATED SERVICE REGARDING CERTAIN PROGRAMS

Section 795 contains new language regarding service obligations for a number of student assistance programs, including scholarships for exceptionally financially needy students (section 736) and the scholarship program described in section 740.

Given the Conferees' concern that despite substantial Federal support for health professions education, many health needs go unaddressed due to the lack of primary care providers particularly in underserved areas, the Conferees have tied receipt of Federal scholarship funds to the completion of primary care training programs and the practice of primary care.

Under the terms of the service provisions, students eligible for financial assistance under one of the designated programs will receive the costs of tuition, books and fees of the program. After graduation from allopathic or osteopathic school of medicine or dental school, the individual must enter general dentistry practice, or will have five years to complete a residency program in either family medicine, general pediatrics, general internal medicine, or general dentistry.

CERTAIN GENERAL PROVISIONS

Section 798 contains new language regarding international medical graduates applying for graduate medical education training (internships and residencies). As a condition of receiving funds under this title, eligible institutions must assure the Secretary that applications from graduates of foreign medical schools for postgraduate residency training programs at their institutions will be considered. The Conferees note, however, this provision is not intended to affect criteria used by the institutions to evaluate applicants including criteria relating to domestic or foreign medical school attended. Furthermore, nothing in this provision may be construed as establishing any private right of action.

TWO-YEAR SCHOOLS OF MEDICINE OR OSTEOPATHIC MEDICINE

The Conference agreement repeals section 788(a) of the Public Health Service Act. The original purpose of this grant program for two-year schools of allopathic or osteopathic medicine was to provide assistance in maintaining and improving programs at those institutions. The program was created at a time when it was projected that there would be a shortage of physicians. The Conferees have placed an emphasis on training programs designed to increase the number of primary care physicians and to improve the geographic maldistribution problem rather than programs designed simply to increase the number of physicians.

Two-year schools of allopathic and osteopathic medicine are eligible to apply for funds under the Area Health Education Center program (section 746), Family Medicine program (section 747), General Internal Medicine and General Pediatrics program (748), Acquired Immune Deficiency Syndrome program (section 776), and Rural Health program (778).

TITLE II—NURSE EDUCATION ACT

When the Congress last reauthorized the Nursing Education Act in 1988, it called for an evaluation of projects funded under title VIII of the Public Health Service Act. In May 1991, the Secretary issued a final report to Congress on the evaluation of these projects. The report provided an overview of how and to what extent the grants carried out under each of the title VIII sections had met their legislative objectives. A major conclusion from the evaluation study was that Federal funds provided to schools of nursing were an important source of development and start-up funds for graduate nursing education, and served as an incentive for innovation in nursing practice.

The Conferees recognize that many steps have been taken to address the current shortage of registered nurses and that the Nursing Education Act has helped to address this critical shortage. The goals of this reauthorization are to train more nurse practitioners, nurse midwives, and nurse anesthetists, and to improve access to health care in medically underserved and rural areas.

AUTHORIZATION PERIOD

The Conference agreement extends for two fiscal years the authorization of appropriations for expiring nurse education programs. This will ensure that when Congress considers the reauthorization of title VIII programs, neither the disadvantaged student assistance programs nor other title VII programs are being reauthorized. Maintaining the discrete focus of Federal assistance on nursing education underscores the continued importance that Congress places on the contribution of nursing to the provision of health care generally and health care reform in particular.

SPECIAL PROJECT GRANTS AND CONTRACTS

Section 202 of the Conference agreement streamlines the nursing special projects authority to place greater emphasis on a smaller number of categorical areas. The Conferees were concerned about the growing diversity of special projects at a time of declining resources. Accordingly, the Conference agreement sharpens the focus of the special projects statute by limiting assistance to four specific categories. These categories include: (1) expanding enrollment in professional nursing programs; (2) promoting career mobility programs which upgrade the skills of licensed vocational or practical nurses, nursing assistants, other paraprofessional nursing personnel; (3) supporting programs that provide continuing education for nurses providing care in medical underserved or rural communities; and (4) developing or expanding programs that improve access to primary care in noninstitutional settings in medically underserved or rural communities. By specifying only a limited number of eligible project categories, the Conferees intend to focus resources on activities that will make the most important contribution to expanding the number of educational opportunities available to individuals desiring to pursue a nursing career.

One of the four priority projects is education and training programs for nursing assistants and other paraprofessional nursing personnel to become licensed vocational or practical nurses or, potentially, registered nurses. The Conferees intend that this demonstration be coordinated with similar special projects to provide a comprehensive career development ladder for all categories of nursing personnel. The proposal is modeled in many respects after reports of the successful New York City Project "Ladders in Nursing Careers" (LINC), which provides counseling services as well as tuition assistance to nursing students. The Conferees believe that nursing providers and the professional nursing profession generally should look toward entry level nursing personnel as viable candidates to pursue educational opportunities to become professional nurses. With respect to LPN-LVN programs, the Conferees intend that funding be awarded solely to schools whose educational curriculum is approved, certified, or otherwise endorsed by the applicable State board as meeting the requirements for such programs.

The Conference agreement modestly reduces the authorization level below the comparable fiscal year 1992 appropriations, consistent with the Conferees' beliefs that additional funds are necessary to expand support for the training of nurse midwives and nurse practitioners. The Conferees recommend that funds no longer necessary to maintain the fiscal year 1992 level of special projects program activity be allocated to nurse practitioner and nurse midwife training activities under section 822. The program is authorized for $10.5 million for each of the fiscal years 1993-1994.

The Conferees recognize that a number of grants originally awarded under the old special projects authority involve multi-year project periods. Subject to the Secretary's discretion, the Conference agreement contains a provision to permit continued support of such projects through the originally agreed upon project period.

ADVANCED NURSE EDUCATION

Section 203 of the Conference agreement makes substantive changes to the program of grants for Advanced Nurse Education (section 821). The Conference agreement continues the Congress' commitment to support the education of nurses who are pursuing advanced education, especially in clinical specialities and public health nursing. The Conference agreement eliminates grants or contracts for programs training nurse researchers and nurse administrators and requires that not more than 10 percent of the appropriation in any fiscal year be used for providing grants or contracts for programs leading to doctoral degrees. The Conferees are aware of the need for nurse researchers. The National Center for Nursing Research (NCNR) was established in 1986 at the National Institutes of Health to foster, conduct, administer, and support research training programs directed at promoting the growth and quality of research related to nursing and patient care. The fiscal year 1992 appropriation for the NCNR is $45 million, and the Conferees note there are funds available through the recently designated National Institute of Nursing Research (NINR) to support training. NINR supports nursing research through research grants, cooperative agreements, and research and development contracts. The Conferees believe that the NINR provides an appropriate source of funds for training nurse researchers. In addition, nurses interested in pursuing careers in administration can receive support on a case by case basis in traineeships in public health and health administration. There is authorized to be appropriated $12 million for fiscal year 1993 and 1994 for section 821.

NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS

Section 204 of the Conference agreement makes changes to the program of grants and contracts for Nurse Practitioner and Nurse Midwife training. Nurse practitioner and nurse midwifery programs have contributed to improving the quality of care by expanding the nurse's role in assessment and case management and in increasing access to primary health care, particularly in medically underserved or rural communities. The Conference agreement emphasizes the need for recipients of funds to work in medically underserved or rural communities. The Conference agreement expands funding for nurse practitioner programs that train providers to treat adolescents and children by removing the special consideration previously provided for geriatric and gerontological nursing applications. There is authorized to be appropriated $20 million for fiscal years 1993 and 1994.

NURSING EDUCATION OPPORTUNITIES FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Section 205 makes no changes to the program of grants for Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds. This program assists students from disadvantaged backgrounds to overcome financial, education, or cultural barriers that prevent entry into nursing schools and interfere with successful completion of their studies. The Conferees emphasize that students who may have an associate degree in nursing would be eligible to receive funding under this section if they are financially, educationally or culturally disadvantaged. There is authorized to be appropriated $5 million for fiscal year 1993 and $6 million for fiscal year 1994.

TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES

Section 206 of the Conference agreement includes substantive changes to the Traineeships for Advanced Education of Professional Nurses. The Conference agreement allows all individuals interested in pursuing graduate level training as nurse clinicians the opportunity to become registered nurses. This will also allow students in graduate-level nursing programs to participate in traineeships when they have completed their basic nursing preparation, as defined by their schools. No longer will licensure as a registered nurse be a prerequisite for recipients of these stipends. The Conference agreement emphasizes preference for clinicians but authorizes traineeships for public health nurses and nurse educators. The Conference agreement eliminates the post-baccalaureate faculty fellowship and requires that not more than 10 percent of funds appropriated under this section in any fiscal year be used for providing traineeships to individuals pursuing doctoral degrees. To support traineeships for the advanced education of nurses, the Conference agreement authorizes $20 million for each of the fiscal years 1993 and 1994.

NURSE ANESTHETISTS

Section 207 makes changes to the program of grants and contracts for training nurse anesthetists. Recognizing the important role that nurse anesthetists fill in medically underserved and rural communities, the Conference agreement supports additional funding to maintain, expand, or establish new programs for training nurse anesthetists and to provide additional traineeships to the students. The Secretary will give preference to applicants that provide their students with clinical training in rural health settings. Grant recipients must give preference in awarding traineeships to individuals who are residents of medical underserved areas. The Conference agreement authorizes $3 million for fiscal year 1993 and $4 million for fiscal year 1994.

STUDENT LOANS

Section 208 of the Conference agreement makes changes to the program of Allotment and Payment of Federal Capital Contributions to schools of nursing. The Conference agreement amends section 838 (a)(3)(A) to require that funds remain in the Nursing Student Loan Program until expended, rather than only for the current two year period, after which time they could have been spent for other Department of Health and Human Services' purposes. The Conference agreement ensures that nursing student loan money will be used only for nursing loan programs and will not be diverted to other purposes in the Department.

PREFERENCES AND REQUIRED INFORMATION

Section 209 establishes funding preferences for qualified applicants who demonstrate a high placement rate of their graduates into practice settings that provide health services to residents of medically underserved communities or who demonstrate a significant increase in the placement of their graduates into such settings. The intent of this provision is to provide an incentive for the development of programs that will train health professionals to meet the health service needs of medically underserved communities. These preferences are substantively identical to the preferences applied to title VII programs under section 791 of this Act.

TRANSFER OF LOAN REPAYMENT PROGRAM

Section 211 of the Conference agreement includes substantive changes to the loan repayment program. Subsection (h) and section 837A have been deleted and the authority for the Loan Repayment Program is transferred to a new subpart. Section 846 facilitates the employment of nurses in medically underserved or rural areas by providing federal funds to repay student loans for those agreeing to serve in such areas. The Conference agreement supports the implementation of the loan repayment program as a method of reducing or eliminating financial barriers to nursing education. The Conference agreement authorizes $5 million for fiscal year 1993 and $6 million for fiscal year 1994.

ADVISORY COUNCIL ON NURSES EDUCATION AND PRACTICE

Section 212 of the Conference agreement redesignates the National Advisory Council on Nurses Education as the National Advisory Council on Nursing Education and Practice.

TITLE III—MISCELLANEOUS PROVISIONS

ADVISORY COUNCIL ON GRADUATE MEDICAL EDUCATION

Section 301 of the Conference agreement makes substantial changes to the provisions for the Advisory Council on Graduate Medical Education. The Conference agreement deletes the separate authorization of appropriations for the Council on Graduate Medical Education (COGME). The Conferees expect that funding for COGME's activities will continue to be provided by the Health Resources and Services Administration from

general administrative sources. In addition, the Conference agreement revises the statutory authority of COGME to reflect the temporary nature of its mandate and specifies that a final report will be presented to the Secretary and to the Congress no later than April 1, 1995. Under the Conference agreement, the COGME will expire on September 30, 1995. It is anticipated that the final report of COGME will be thoroughly considered by the Congress during the scheduled reauthorization for health professions programs under title VII of the Public Health Service Act that will occur during fiscal year 1995.

The Conferees believe that in its final 3 years, the COGME should play an increasingly active role in analyzing and making policy recommendations concerning such issues as supply of critical health professionals to serve in shortage areas and the effect of funding and reimbursement policies as potential disincentives to the choice of primary care training and service in underserved areas.

COMMISSION ON ALLIED HEALTH

Section 302 of the Conference agreement establishes a national commission to make recommendations to the Secretary and appropriate Committees of Congress on issues such as the supply and distribution of allied health personnel, and current and future shortages of allied health personnel.

STUDY REGARDING CLINICAL LABORATORY TECHNOLOGISTS FOR MEDICALLY UNDERSERVED AND RURAL COMMUNITIES

Section 303 of the Conference agreement provides authority for the Secretary to conduct a study on the shortage of clinical laboratory technologists. The Conferees are concerned about the reports of a nationwide shortage of clinical laboratory technologists and the adverse impact such a shortage could have on rural and other underserved areas. The Conferees expect the Secretary to consider, in carrying out this study, the need for and appropriateness of alternative mechanisms for increasing the supply of clinical laboratory technologists including certification through a competency-based examination and recognition of private certifying organizations.

RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE

Section 304 of the Conference agreement authorizes the Secretary to make grants for planning and developing residency training programs in emergency medicine (section 1251) if the training programs will provide education and training in identification and appropriate referral of cases of domestic violence. The program is authorized at $400,000 for each of the fiscal years 1993 through 1995.

CERTAIN CLINICAL TRAINEESHIPS

Section 305 of the Conference agreement amends Section 303(d)(2) of the Public Health Service Act to expand the locations that fulfill required service obligation by including the provision of mental health services in local or federal prisons or correctional facilities for individuals receiving clinical traineeship in psychology, psychiatry, nursing, marriage and family therapy, or social work.

SPECIAL CONSOLIDATION LOAN PROGRAM

Section 306 of the Conference agreement amends Section 428C of the Higher Education Act of 1965 to allow Health Education Assistance Loans (HEAL) to be made part of a consolidated loan without a Federal subsidy. HEAL loans are authorized under Subpart I of Part A of Title VII of the Public Health Service Act.

NATIONAL ADVISORY COUNCIL ON MEDICAL LICENSURE

Section 307 of the Conference agreement provides authority for the establishment of a National Advisory Council on Medical Licensure ("The Council"). The Council will provide advice to the Secretary regarding the operation of the system established by the American Medical Association for the purpose of verifying and maintaining information regarding the qualifications of individuals to practice medicine regarding the establishment and operation of any similar system. The Council will also determine the extent to which the verification system has expedited or otherwise improved the efficiency and equitable operation of the process of licensure by endorsement. In addition, the Council will also review policies, practices, and laws of States in licensing international and domestic medical graduates, determine the effects of these policies, and consult with State authorities that license individuals to practice medicine to recommend non-discriminatory practices in licensure and licensure by endorsement.

The Conferees expect that the deliberations of the Council, will be conducted in an objective setting, will promote constructive dialogue between concerned organizations, and will systematically review all facets of State policies and practices affecting licensure and licensure by endorsement for graduates of both U.S. and international medical schools.

The Council will continue in existence until the submission of its final report or not later than September 30, 1995, whichever is earlier. The Council is required to prepare and submit a report to the Secretary, the Senate Committee on Labor and Human Resources, and the House Committee on Energy and Commerce on its findings and recommendations.

INSTRUCTION ON PREVENTION OF TRANSMISSION OF BLOODBORNE DISEASES

Section 308 of the Conference agreement requires assurances by applicants that all trainees, as appropriate, will receive instruction in the utilization of universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases. The Conferees believe that it is critical that all health professions trainees receive instruction in universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases.

STUDY ON THE EFFECTIVENESS OF HEALTH PROFESSIONS PROGRAMS

Section 309 of the Conference agreement provides for a study by the General Accounting Office (GAO) of the effectiveness of programs funded under titles VII and VIII. Six months prior to the next reauthorization of Titles VII and VIII, the Conferees expect to be able to be guided by findings from a comprehensive GAO assessment of the effectiveness of the programs to achieve stated goals, including alleviating shortages and encouraging practice in underserved and rural communities; and of the relative effectiveness of the various funding mechanisms, the duration of service of former program participants in medically underserved or rural communities, and the geographic distribution of former program participants. In this context, the conferees request that the GAO include in its study a review of the continued fragmentation of funding to categorical groups of health professionals, and recommend alternative models of funding the training of health professionals.

DELAYED APPLICABILITY OF CERTAIN PROVISIONS

Section 310 of the Conference agreement amends section 403A(a)(1) of the Federal Food, Drug, and Cosmetic Act to allow states with their own maple syrup regulatory programs to continue to enforce existing state standards until September 1, 1994 without being preempted by federal regulations. During this time it is expected that the Food and Drug Administration will act on petitions for exemption from preemption filed by any interested state under the Nutrition Labeling and Education Act of 1990 (NLEA).

Passage of the NLEA had the effect of preempting any state standard of identity for maple syrup which is more stringent than the federal standard established under regulation. A number of states, such as Vermont, Maine and New York, have established standards for maple syrup which are stricter than federal requirements.

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS

The Conference agreement provides for the repeal of the National Advisory Council on Health Professions effective October 1, 1992. The Conferees believe that the function and the priority of the health professions programs under title VII has changed sufficiently as a result of the Conference agreement and the Disadvantaged Minority Health Improvement Act of 1990 that a single advisory council is no longer an appropriate vehicle for providing guidance to the Secretary on the appropriate direction of health manpower policy in areas as diverse as veterinary medicine, pharmacy, podiatric medicine, allied health, clinical psychology, allopathic and osteopathic medicine, and dentistry.

JOHN D. DINGELL,
HENRY A. WAXMAN,
BILL RICHARDSON,
NORMAN LENT,
TOM BLILEY,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such roll votes, if postponed, will be taken on Wednesday, September 30, 1992.

PRINTING OF "THOMAS JEFFERSON'S MANUAL OF PARLIAMENTARY PRACTICE"

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con.

Res. 112) to authorize printing of "Thomas Jefferson's Manual of Parliamentary Practice," as prepared by the Office of the Secretary of the Senate.

The Clerk read as follows:

S. CON. RES. 112

Whereas parliamentary bodies require written rules of order for their proceedings to be conducted fairly and efficiently;

Whereas the Senate's first code of rules provided that "every question of order shall be decided by the presiding officer, without debate";

Whereas Thomas Jefferson, serving as the Senate's second president from 1797 to 1801, prepared for his own guidance a manual of legislative practice that included, under 53 topical headings, precedents from major authorities on parliamentary conduct;

Whereas "Jefferson's Manual" set the framework for the evolution of the Senate's rules and procedures, served to inspire respect for parliamentary law in the new Nation, and stands as one of Jefferson's most enduring intellectual ventures;

Whereas "Jefferson's Manual" was first printed for the use of the Senate in 1801 and was subsequently published by the Senate on a regular basis from 1828, 1975;

Whereas the House of Representatives in 1837 provided by rule, which still exists, that the provisions of "Jefferson's Manual" should "govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House"; and

Whereas April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson and it is fitting on this occasion to honor Jefferson and the continued development of parliamentary law: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "A Manual of Parliamentary Practice for the Use of the Senate of the United States" by Thomas Jefferson (with the editorial assistance of the Senate Historical Office under the supervision of the Secretary of the Senate).

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed with suitable binding 10,000 copies for the use of the Senate and House of Representatives, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

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

Mr. Speaker, Senate Concurrent Resolution 112 is sponsored by the Honorable WENDELL FORD, chairman of the Senate Rules and Administration Committee. The resolution calls for the printing of a new edition of "Thomas Jefferson's Manual of Parliamentary Practice," as a Senate document. Jefferson's manual, the first volume of parliamentary procedure ever compiled in the United States, was written while Thomas Jefferson served as Vice President of the United States from 1797 to 1801. Jefferson wrote the manual to instruct Members of Congress on proper legislative procedure. Drawing on the precedents of the British Parliament and the precepts of the Constitution, he sought to establish for future presiding officers "some known system of rules."

Jefferson's "Manual of Parliamentary Practice," known more simply as "Jefferson's Manual" was first published in 1801, the year that Jefferson was inaugurated President of the United States. A second edition, with some minor revisions appeared in 1812. In 1837, the House of Representatives adopted a rule that the practices comprised in "Jefferson's Manual" "shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House." That rule remains in effect today.

From 1801 to the mid-1970's, various editors updated and perfected Jefferson's style in successive versions of the House and Senate editions, changing punctuation and inserting text embodying procedural developments agreed to long after Jefferson's time. In the continued development of parliamentary law, the Senate Historical Office has proposed a new and complete edition true to Jefferson's original version. The new edition of "Jefferson's Manual" will be available to Members of Congress as we commemorate the upcoming 250th anniversary of Thomas Jefferson's birth in 1993.

Mr. Speaker I reserve the balance of my time.

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

Mr. Speaker, this is a reauthorization for the printing of "Jefferson's Manual of Procedures." There are to be 10,000 copies printed, 5,000 for the Senate and 5,000 for the House, which seems appropriate, because with 100 Members in the Senate and 435 Members in the House, they have three office buildings and we have three office buildings.

I hope Members will read their copies that are given to them. As the gentleman from Illinois indicated, Jefferson originally created the manual so that some known system of rules would be available.

It is not just the rules, it is the precedents that are determined from those rules that really govern us in our daily behavior here. And I hope as the majority reads the book they understand that precedents are rules for the long term, not for the exigencies of the moment. We will keep an eye on the parliamentary procedure of this House as though Jefferson were here.

I support Senate Concurrent Resolution 112.

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

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 112).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 112, the Senate concurrent resolution just concurred in.

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

There was no objection.

DISTRICT OF COLUMBIA JUSTICE REFORM ACT OF 1992

Ms. NORTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4096) to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the small claims and conciliation branch of the Superior Court of the District of Columbia, and to authorize the corporation counsel for the District of Columbia to conduct criminal prosecutions of certain juvenile defendants, as amended.

The Clerk read as follows:

H.R. 4096

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Justice Reform Act of 1992".

SEC. 2. INCREASE IN MAXIMUM AMOUNT IN CONTROVERSY PERMITTED FOR CASES UNDER JURISDICTION OF SMALL CLAIMS AND CONCILIATION BRANCH OF SUPERIOR COURT.

(a) IN GENERAL.—Section 11-1321, D.C. Code, is amended by striking "$2,000" and inserting "$5,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cases filed with the Superior Court of the District of Columbia on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 20 minutes and

the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

□ 1220

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

Mr. Speaker, the purpose of this legislation, as amended, is to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia.

Mr. Speaker, I would first like to note that a bipartisan compromise was reached and agreed to which had the effect of dispensing with one of the provisions of H.R. 4096 as reported. Both majority and minority members of the Committee on the District of Columbia agreed to strike from the bill section 3, which would have authorized the Corporation Counsel for the District of Columbia to conduct criminal prosecutions of certain juvenile defendants, except in those cases where an individual would otherwise be a codefendant with another person who was to be tried as an adult by the U.S. attorney for a crime with a common set of facts. In such cases, the U.S. attorney would have notified the Corporation Counsel of such facts and conducted any subsequent prosecution of the transferred individual.

After having agreed to strike this section of the bill, the only remaining provision of the legislation amends title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the District of Columbia from the existing maximum of $2,000 to $5,000.

This legislation was introduced at the request of the Mayor and Corporation Counsel of the District of Columbia. The need for this legislation and its expected positive benefits are unquestioned. The Mayor, Corporation Counsel, the chief judge of the D.C. Superior Court, and this Member are all in agreement that this legislation will enhance and increase the capability of D.C. courts to deal more effectively with the overwhelming caseload in criminal matters and other areas of the court's docket. Presently, it has been estimated that 5,000 of the 15,000 cases now on the court's civil docket would be removed by this legislation. That represents a 35-percent reduction in the court's caseload.

Mr. Speaker, H.R. 4096 as amended, was passed by a voice vote of the District of Columbia Committee and favorably reported on August 11, 1992. As I indicated earlier, one section of the bill over which there was disagreement, was struck with the mutual consent of both the majority and the minority. The present form of the bill, as amended, enjoys the support of both sides of our committee. For this support, I would like to thank each of our members, especially Mr. BILL LOWERY, the ranking member of the Judiciary and Education Subcommittee, who agreed to have the bill considered directly by the full committee; and, of course, my colleague from Virginia, Mr. THOMAS J. BLILEY, the ranking minority member of our full committee, who has offered his support for that section of H.R. 4096 which we are urging the passage of today.

I would also like to thank both the majority and minority staff members of the committee for their diligence and long-term hard work which produced this legislation as it was brought before the full committee and, finally, the compromise which allowed us to agree on an important section of the bill.

Mr. Speaker, I very much appreciate the willingness of Chairman DELLUMS to author this legislation at the request of Mayor Sharon Pratt Kelly. This bill raises the jurisdictional limit on cases which may be brought to the District of Columbia's Small Claims Court from $2,000 to $5,000. This will enable our trial court to handle criminal matters much more quickly by shifting judicial resources from the civil to the criminal dockets.

H.R. 4096 represents just one of several elements of Mayor Kelly's youth and crime initiative. Chairman DELLUMS agreed to introduce it because, regrettably, the District's Mayor and the city council have no authority under the District of Columbia Self-Government and Governmental Reorganization Act to amend title 11 of the D.C. Code which deals with judicial matters. Mayor Kelly's initiative, particularly its focus on the pipeline that leads to crime, has won praise from criminologists and other experts who have investigated the effectiveness of various approaches to crime. I also deeply regret the fact that the Congress could not follow through on its initial commitment to provide $30 million for the Mayor's initiative because of the President's threat to veto appropriations bills which exceeded his own spending request. The funding could have provided District residents and visitors real relief from violent crime, unlike the death penalty which has brought no relief to those jurisdictions which employ it.

Violent crime is a problem confronting the District of Columbia and many other large cities today. A vicious, high crime rate hovers over other issues because it is feeding them all. Efforts at decent housing, improved health, high quality education and productive social welfare practices are often short-circuited by the atmosphere and events produced by suffocating criminal activity. The District has been diligently seeking solutions. No jurisdiction in the United States can yet claim the success most seek. Exclusive reliance on increasingly more severe sanctions, including the death penalty and mandatory sentences, with little attention to and funding for prevention, have not so much as even slowed the crime and murder rate here or elsewhere.

Finally, Mr. Speaker, I regret that circumstances will not permit this House to also consider before adjournment legislation creating a Supreme Court for the District. The crime rate in the District has made a D.C. Supreme Court especially urgent this year. The District courts are clogged both at the bottom and the top. That bill, H.R. 5811, would have brought relief at both ends. Today, many inappropriate cases linger in the trial court, although they involve questions of law which could be certified to and disposed of in a Supreme Court, making room for urgent criminal matters. This single improvement insuring swift and sure justice is one of the few known to have a direct affect on crime rates. Yet while it has been twice reported by the District Committee and passed once by this House, we are forced to wait even longer to implement a system which is found in 38 other states.

Mr. Speaker, again, I appreciate the hard work of Chairman DELLUMS on the bill before us, and urge all of my colleagues to support it.

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

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

Mr. Speaker, I am happy to join my colleague, the chairman of the D.C. Committee, Mr. DELLUMS, in support of the amended District of Columbia Justice Reform Act of 1992. As amended, the bill will increase the jurisdictional maximum amount in controversy in small claims proceedings from $2,000 to $5,000.

Under home rule, the judicial system in the District of Columbia remains a Federal institution. The courts are article 1 Federal courts whose judges are appointed by the President and confirmed by the Senate. Under the Home Rule Act, any change in the jurisdiction of either the D.C. Court of Appeals or the D.C. Superior Court require congressional action.

Congress last amended the jurisdictional maximum amount for D.C. small claims in 1984.

Mr. Speaker, even though President Bush, and President Reagan before him, enjoyed enormous success in controlling inflation, it should be clear that $2,000 is an antiquated maximum amount for small claims. And, indeed, since 1986 there has been a study decline in small claims filings as the dollar amount in controversy either forced simple cases into more expensive and complex proceedings or discouraged litigants from entering the courthouse at all.

Last year, the D.C. Superior Court had almost a quarter of a million cases before it that were available for disposition. H.R. 4096 will allow more of those cases to be resolved through informal small claims procedures and allow the court's resources to be more efficiently employed.

Mr. Speaker, I urge my colleagues to support H.R. 4096.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms NORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman from the District of Columbia [Ms. NORTON] that the House suspend the rules and pass the bill, H.R. 4096, as amended.

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

The title was amended so as to read: "A bill to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4096, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

DISTRICT OF COLUMBIA SPOUSE EQUITY ACT OF 1988 AMENDMENTS

Ms. NORTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1880) to amend the District of Columbia Spouse Equity Act of 1988.

The Clerk read as follows:

S. 1880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Spouse Equity Act of 1988, effective March 16, 1988 (D.C. Law 7-214; D.C. Code, section 1-3001 et seq.) is amended—

(1) in section 2 (section 1-3001) by striking the period at the end thereof and inserting ", or an officer, member, or retiree of the United States Park Police Force, or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4-607 et seq. of the D.C. Code) applies.";

(2) in section 3(1) (section 1-3002(a)) by striking "a District" and inserting "an"; and

(3) in section 3(2) (section 1-3002(b)) by striking the period at the end thereof and inserting "or an officer, member, or retiree of the United States Park Police Force or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4-607 et seq. of the D.C. Code) applies.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 20 minutes and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

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

Mr. Speaker, the purpose of S. 1880 is to amend the District of Columbia Spouse Equity Act of 1988 to include under its coverage certain employees of the U.S. Secret Service and U.S. Park Police hired prior to 1984, who participate in a retirement system of the District of Columbia and who are not currently covered by the provisions of either the D.C. Spouse Equity Act or its Federal counterpart.

Both the Federal Government and the District have enacted laws which currently afford former spouses of Federal civil service and District employees, respectively, legal rights with regard to the receipt of annuity benefits. These rights are afforded to former spouses, because Congress and the District have determined that spouses are entitled to a share of the annuity benefits earned during the course of a marriage.

The District of Columbia Corporation Counsel and the Office of Personnel Management [OPM], when contacted by the Secret Service regarding this issue in 1990, were in agreement that there was, in fact, a gap in coverage for these individuals and that an amendment to the Federal or District Spouse Equity Acts would be an appropriate remedy. OPM recommended that the amendment be made to the D.C. Spouse Equity Act due to the fact that, although the Federal Treasury was funding the annuities of Federal employees who are covered by the District's retirement system, the District performs the administrative function of sending out annuity and survivor benefits for these individuals.

There are no significant costs associated with this legislation. I ask that my colleagues join me in support of this small but needed change to close this inadvertent gap and provide rightful legal protections to those entitled employees and their spouses.

On Friday, September 25, 1992, the Senate passed S. 1880 without amendment by voice vote. I recommend that the House agree to S. 1880 and that it do pass.

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

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

Mr. Speaker, I rise in support of S. 1880, a bill to amend the District of Columbia Spouse Equity Act of 1988. The Senate passed this legislation last week and sent it to the House for immediate consideration.

The Spouse Equity Act simply brings a small number of Federal employees under the same personnel retirement system rules as other Federal and District employees. Both the Federal Government and the District government already provide certain rights to former spouses to nearly all of their employees. But there is a gap in the law in regards to members and retirees of the U.S. Secret Service and the U.S. Park Police. S. 1880 brings this small group of people, perhaps no more than 20 individuals, into conformity with the vast majority.

There should be no cost to the Federal Government as S. 1880 does not increase the amount of benefits, but merely addresses how benefits are distributed. It simply requires the Mayor of the District of Columbia to recognize an annuity or benefits award which is the subject of a qualifying court order. Any additional paperwork burden on the District government should be minimal.

Mr. Speaker, I understand that S. 1880 is consistent with the administration's personnel policies. I am not aware of any opposition to this legislation. I commend the chairman of the Committee on the District of Columbia, Mr. DELLUMS, and the Delegate from the District, Ms. NORTON, for bringing this legislation to the floor for immediate consideration as it corrects an apparent flaw in the convoluted and often confusing retirement system.

I urge all of my colleagues to support S. 1880 and I yield back the balance of my time.

□ 1230

Ms. NORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman from the District of Columbia [Ms. NORTON] that the House suspend the rules and pass the Senate bill, S. 1880.

The question was taken and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1880, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

COLUMBIA HOSPITAL FOR WOMEN LAND PURCHASE

Ms. NORTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3703) to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District

of Columbia, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3703

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

SECTION 1. CONVEYANCE OF LAND.

(a) ADMINISTRATOR OF GENERAL SERVICES.—Subject to sections 2 and 4, the Administrator of General Services (hereinafter in this Act referred to as the "Administrator") shall convey, for $12,800,000 to be paid in accordance with the terms set forth in subsection (d)(2) and other consideration required by this Act, to the Columbia Hospital for Women (formerly Columbia Hospital for Women and Lying-in Asylum; hereinafter in this Act referred to as "Columbia Hospital"), located in Washington, District of Columbia, all right, title, and interest of the United States in and to those pieces or parcels of land in the District of Columbia, described in subsection (b), together with all improvements thereon and appurtenances thereto. The purpose of the conveyance is to provide a site for the construction by Columbia Hospital of a facility to house the National Women's Health Resource Center (hereinafter in this Act referred to as the "Resource Center"), as described in the Certificate of Need issued for the Resource Center in conformance with District of Columbia law and in effect on the date of conveyance.

(b) PROPERTY DESCRIPTION.—The land referred to in subsection (a) was conveyed to the United States of America by deed dated May 2, 1888, from David Fergusson, widower, recorded in liber 1314, folio 102, of the land records of the District of Columbia, and is that portion of square numbered 25 in the city of Washington in the District of Columbia which was not previously conveyed to such hospital by the Act of June 28, 1952 (Public Law 82-423). Such property is more particularly described as square 25, lot 803, or as follows: all that piece or parcel of land situated and lying in the city of Washington in the District of Columbia and known as part of square numbered 25, as laid down and distinguished on the plat or plan of said city as follows: beginning for the same at the northeast corner of the square being the corner formed by the intersection of the west line of Twenty-fourth Street Northwest, with the south line of north M Street Northwest and running thence south with the line of said Twenty-fourth Street Northwest for the distance of two hundred and thirty-one feet ten inches, thence running west and parallel with said M Street Northwest for the distance of two hundred and thirty feet six inches and running thence north and parallel with the line of said Twenty-fourth Street Northwest for the distance of two hundred and thirty-one feet ten inches to the line of said M Street Northwest and running thence east with the line of said M Street Northwest to the place of beginning two hundred and thirty feet and six inches together with all the improvements, ways, easements, rights, privileges, and appurtenances to the same belonging or in anywise appertaining.

(c) DATE OF CONVEYANCE.—

(1) DATE.—The date of the conveyance of property required under subsection (a) shall be the date which is 1 year after the date of receipt by the Administrator of written notification from Columbia Hospital that the hospital needs such property for use as a site to provide housing for the Resource Center.

(2) DEADLINE FOR SUBMISSION OF NOTIFICATION.—A written notification of need from Columbia Hospital shall not be effective for purposes of subsection (a) and paragraph (1) unless the notification is received by the Administrator before the date which is 1 year after the date of the enactment of this Act.

(d) CONVEYANCE TERMS.—

(1) IN GENERAL.—The conveyance of property required under subsection (a) shall be subject to such terms and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States. Such terms and conditions shall be consistent with the terms and conditions set forth in this Act.

(2) PAYMENT OF PURCHASE PRICE.—Columbia Hospital shall pay the $12,800,000 purchase price in full by not later than the date of conveyance under subsection (c).

(3) QUITCLAIM DEED.—Any conveyance of property to Columbia Hospital under this Act shall be by quitclaim deed.

(e) TREATMENT OF AMOUNTS RECEIVED.—Amounts received by the United States as payment under this Act shall be paid into, administered, and expended as part of the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

SEC. 2. LIMITATION ON CONVEYANCE.

No part of any land conveyed under section 1 may be used, during the 30-year period beginning on the date of conveyance under section 1(c)(1), for any purpose other than to provide a site for a facility to house the Resource Center and any necessary related appurtenances to that facility.

SEC. 3. SATELLITE HEALTH CENTERS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 4 years after the date of the conveyance under section 1, Columbia Hospital, after consultation with the District of Columbia Commission of Public Health and the District of Columbia State Health Planning and Development Agency, shall establish, maintain, and operate 3 satellite health centers.

(2) PERSONS TO BE SERVED.—One of the satellite health centers shall provide comprehensive health and counseling services exclusively for teenage women and their children. The other 2 satellite health centers shall provide comprehensive health and counseling services for women (including teenage women) and their children.

(3) LOCATION.—The satellite health centers shall be located in areas of the District of Columbia in which the District of Columbia Department of Public Health has determined that the need for comprehensive health and counseling services provided by the centers is the greatest. In locating such centers, special consideration shall be given to the areas of the District with the highest rates of infant death and births by teenagers.

(b) COMPREHENSIVE HEALTH AND COUNSELING SERVICES.—In subsection (a), comprehensive health and counseling services include—

(1) examination of women;

(2) medical treatment and counseling of women, including prenatal and postnatal services;

(3) treatment and counseling of substance abusers and those who are at risk of substance abuse;

(4) health promotion and disease prevention services;

(5) physician and hospital referral services; and

(6) extended and flexible hours of service.

(c) REQUIRED CONSIDERATION.—The establishment, operation, and maintenance of satellite health centers by Columbia Hospital in accordance with this section shall be part of the consideration required by this Act for the conveyance under section 1.

SEC. 4. REVERSIONARY INTEREST.

(a) IN GENERAL.—The property conveyed under section 1 shall revert to the United States—

(1) on the date which is 4 years after the date of such conveyance if Columbia Hospital is not operating the Resource Center on such property; and

(2) on any date in the 30-year period beginning on the date of such conveyance, on which the property is used for a purpose other than that referred to in section 2.

(b) REPAYMENT.—If property reverts to the United States under subsection (a), the Administrator shall pay to Columbia Hospital, from amounts otherwise appropriated from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), an amount equal to all sums received by the United States as payments for the conveyance under section 1, without interest on such amount.

(c) ENFORCING REVERSION.—The Administrator shall perform all acts necessary to enforce any reversion of property to the United States under this section.

(d) INVENTORY OF PUBLIC BUILDINGS SERVICE.—Property that reverts to the United States under this section—

(1) shall be under the control of the General Services Administration; and

(2) shall be assigned by the Administrator to the inventory of the Public Buildings Service.

SEC. 5. DAMAGES.

(a) DAMAGES.—Subject to subsection (b), for each year in the 26-year period beginning on the date which is 4 years after the date of conveyance under section 1(c)(1), in which Columbia Hospital does not operate 3 satellite health centers in accordance with section 3 for a period of more than 60 days, the Columbia Hospital shall be liable to the United States for damages in an amount equal to $200,000, except that this subsection shall not apply after the date of any reversion of property under section 4.

(b) LIMITATION IN DAMAGES.—The maximum amount of damages for which Columbia Hospital may be liable under this section shall be $3,000,000.

(c) ADJUSTMENTS FOR INFLATION.—The amount of damages specified in subsection (a) and the maximum amount of damages specified in subsection (b) shall be adjusted biennially to reflect changes in the consumer price index that have occurred since the date of the enactment of this Act.

(d) ASSESSMENT AND WAIVER.—For any failure by Columbia Hospital to operate a satellite health center in accordance with section 3, the Administrator may—

(1) seek to recover damages under this section; or

(2) waive all or any part of damages recoverable under this section for that failure, if the Administrator—

(A) determines the failure is caused by exceptional circumstances; and

(B) submits a statement to the District of Columbia Commission of Public Health and the Congress, that sets forth the reasons for the determination;

(e) CONVEYANCE DOCUMENTS.—The Administrator shall include in the documents for any conveyance under this Act appropriate provisions to—

(1) ensure that payment of damages under this section is a contractual obligation of Columbia Hospital; and

(2) require the Administrator to provide to Columbia Hospital notice and an opportunity to respond before the Administrator seeks to recover such damages.

SEC. 6. REPORTS.

During the 5-year period beginning one year after the date of the conveyance under section 1, Columbia Hospital shall submit to the Administrator, the appropriate committees of the Congress, and the Comptroller General of the United States annual reports on the establishment, maintenance, and operation of the Resource Center and the satellite health centers.

The SPEAKER pro tempore. Pursuant to the rules, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 20 minutes and the gentleman from California [Mr. COX] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

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

Mr. Speaker, H.R. 3703, as amended, authorizes GSA to sell land to the Columbia Hospital for Women that is adjacent to the hospital.

The hospital intends to build a facility to house its Women's Health Resource Center on this land. The resource center will make major contributions to the health care of women.

As further compensation to the Government for the land, the amendment provides that the hospital will establish, operate, and pay for three satellite health care centers. The health care centers will be located in this district where the need for health care for women and children is the greatest. This legislation will benefit many deserving people and at no Federal cost.

I urge adoption of H.R. 3703, as amended.

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

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

Mr. Speaker, I rise in support of H.R. 3703 which provides for the sale of Federal land to the Columbia Hospital for Women to establish a national women's health resource center.

I want to commend Chairman SAVAGE for his work in perfecting this bill. The changes that the chairman proposed have contributed significantly to protecting the taxpayer's interests, and expanding the public benefit.

As amended by the Committee on Public Works and Transportation, the bill stipulates that the hospital will also establish three satellite health centers. These three centers, together with the main location, will provide comprehensive health and counseling services for women, and their children. In addition, the bill specifies that if the Women's Health Resource Center is not operational within 4 years of conveyance of the property, the property will revert back to the Federal Government.

The mission of Columbia Hospital for Women is to "improve the health and well-being of women and infants in the Washington metropolitan area and throughout the Nation." Accordingly, Columbia has established itself as a premiere health institution for women and children. In fact, it is the only women's hospital chartered by Congress to meet the specific health needs of women.

Columbia has many accomplishments in women's health. We owe to their efforts increased national awareness of the benefits from the use of mammography and ultra sound equipment. They've been leaders in the fields of obstetrics, gynecology and neonatology. In addition, Columbia is the leading birthing center in the Washington metropolitan area. There are approximately 5,500 births at Columbia each year.

The National Women's Health Resource Center will build on Columbia's leadership in women's health issues. In fact, the center, which was incorporated in 1988, has already devoted much of its energies to education for professional health care providers and health care consumers. Once the center is built and fully operational, it will provide clinical services, clinical investigation, education, and public awareness programs. And while the center is not intended for primary care, patients of the center's clinic will be able to take full advantage of Columbia Hospital's primary care facility as needed.

Mr. Speaker, in addition to the $12.8 million that Columbia will be paying to the taxpayers—to the public building fund—for the property, the American public will benefit greatly over the long term as a result of this transaction. Specific attention to women's health care issues is long overdue. This bill, H.R. 3703 is a major step in correcting this oversight. I support H.R. 3703 and urge my colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY] a member of the Committee on the District of Columbia.

Mr. BLILEY. I thank the gentleman for yielding time to me.

Mr. Speaker, under the terms of H.R. 3703, the General Services Administration will be directed to sell 1.2 acres of Federal property in Northwest District of Columbia to the Columbia Hospital for Women for $12.8 million. If passed and signed into law, H.R. 3703 will end a long running feud between Columbia Hospital, GSA, and the surrounding neighborhood over the development of this valuable property. Those Members who know the area around 24th and M Streets Northwest as I do will understand why this property has been so coveted. As one of the last parcels of land owned by the Federal Government in that part of the District, it would have been grossly unfair to agree to Columbia Hospital's original terms. But I can assure my colleagues that the work done by the Committee on the District of Columbia and the Committee on Public Works and Transportation have improved the terms in favor of the Federal Government.

The purchase price has been increased and the hospital must pay the entire cost at the time of conveyance. Furthermore, if Columbia Hospital fails to live up to the conditions of this legislation, the property will revert to the Federal Government. Some of our initial objections to this legislation have been satisfied. All of the improvements made in H.R. 3703 result in a better deal for the American taxpayer.

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

Ms. NORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from the State of Washington [Mr. MCDERMOTT], a member of the Committee on the District of Columbia.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentlewoman from the District of Columbia for yielding time to me.

Mr. Speaker, the purpose of H.R. 3703, as amended, is to authorize the Columbia Hospital for Women to purchase adjacent Federal land. H.R. 3703 as amended will allow the nonprofit hospital to purchase for $12.8 million the 1.2 acres of adjoining land. The hospital occupies the remainder of the square block bordered by L, M, 25th, and 24th Streets. The hospital proposes to house its National Women's Health Resource Center in a building to be constructed on this site with private funds. The new center will become a major source of medical knowledge, information, and research in the critical health care needs of women, prenatal, and infant care. In addition, the Columbia Hospital will establish and operate three satellite health centers to provide health services in areas where the incidence of infant deaths and teenage pregnancy are the greatest.

The full committee on the District of Columbia voted to report H.R. 3703 on November 7, 1991, by majority voice vote. Bills similar to this bill were first introduced over 6 years ago. Bills similar to H.R. 3703 have been favorably reported by the House District of Columbia Committee in the 100th and the 101st Congress. H.R. 3703 was referred to three House committees: The Committee on the District of Columbia, Government Operations, and Public Works and Transportation. I want to thank the chairman of each of the other committees, Chairman ROE of the House Public Works Committee and Chairman CONYERS of House Government Operations, for their support of this matter and the chair of the three subcommittees who considered this bill in all of its drafts. I especially want to thank Congressman GUS SAVAGE, chair of the Subcommittee on Public Buildings and Grounds, who, this Congress, held extensive hearings

on the H.R. 3703 and drafted the final amended version of the bill that all three committees could support. Finally, I want to thank Congresswoman NORTON who saw the importance of this measure for women's health issues nationally and for local women in areas where the needs are the greatest. My thanks to the staffs of all the committees for their diligent work.

The amended version of H.R. 3703, unanimously approved by the House Public Works Committee, requires that the Columbia Hospital for Women pay $12.8 million in total on the date of conveyance of the land instead of purchasing the land over a 10-year period. The amended version establishes damages of $200,000 if the hospital fails to operate any or all of the three satellite health centers. The amended version requires that for the next 30 years, the land conveyed must be used to house the National Women's Health Resource Center.

With these amendments and assurances, there is agreement that H.R. 3703 as amended pass.

I note that the second from the last paragraph in the additional views of our committee Report 102-912, part I, has dropped a line that is important to understanding the legislative history of the bill. The line should read:

All three Committees have either in the 101st or 102nd Congress fully considered through hearings bills similar to H.R. 3703. On September 24, 1992, the House Public Works Committee unanimously approved H.R. 3703 with an amendment in the nature of a substitute.

Mrs. SCHROEDER. Mr. Speaker, today I rise in strong support of H.R. 3703 to purchase land for the Columbia Hospital for Women.

H.R. 3703 is a simple proposal. It authorizes the sale of a plot of land next to the Columbia Hospital for Women to be privately developed as the new headquarters for the National Women's Health Resource Center [NWHRC]. No Federal funds would be used in this transaction, as Columbia Hospital for Women is in fact a private not-for-profit medical center for women, and the National Women's Health Resource Center is a subsidiary of the hospital. The land in question is now occupied by a dilapidated General Services Administration building, and if the NWHRC cannot develop the land within 4 years, the plot will be given back to the Federal Government.

The District of Columbia has twice the national average of infant mortality and low-birth weight babies. The Columbia Hospital for Women provides critical services for these women and is the largest birthing center in the District. The NWHRC provides a novel combination of referral, counseling, and outreach services. It also works directly with clinics to create unique health care programs serving low income and other underserviced women. Giving the NWHRC a permanent home at the Columbia Hospital for Women allows the NWHRC to concentrate on what they do best—caring for women.

□ 1240

Ms. NORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman from the District of Columbia [Ms. NORTON] that the House suspend the rules and pass the bill, H.R. 3703, as amended.

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

A motion to reconsider was laid on the table.

GOVERNMENT PRINTING OFFICE ELECTRONIC INFORMATION ACCESS ENHANCEMENT ACT OF 1992

Mr. ROSE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5983) to establish in the Government Printing Office a means of enhancing electronic public access to a wide range of Federal electronic information, as amended.

The Clerk read as follows:

H.R. 5983

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Printing Office Electronic Information Access Enhancement Act of 1992".

SEC. 2. AMENDMENTS TO TITLE 44, UNITED STATES CODE.

(a) IN GENERAL.—Title 44, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 41—ACCESS TO FEDERAL ELECTRONIC INFORMATION

"Sec.
"4101. Electronic directory of Federal electronic information; online access to the Congressional Record and the Federal Register.
"4102. Fees.

"§ 4101. Electronic directory of Federal electronic information; online access to the Congressional Record and the Federal Register

"(a) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, shall—

"(1) maintain an electronic directory of Federal public information stored electronically; and

"(2) provide a system of online access to the Congressional Record, the Federal Register, and, as determined by the Superintendent of Documents, other appropriate publications distributed by the Superintendent of Documents.

"(b) DEPARTMENTAL REQUESTS.—To the extent practicable, the Superintendent of Documents shall accommodate any request by the head of a department or agency to include in the system of access referred to in subsection (a)(2) information that is under the control of the department or agency involved.

"(c) CONSULTATION.—In carrying out this section, the Superintendent of Documents shall consult—

"(1) users of the directory and the system of access provided for under subsection (a); and

"(2) other providers of similar information services.

The purpose of such consultation shall be to assess the quality and value of the directory and the system, in light of user needs.

"§ 4102. Fees

"(a) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, may charge reasonable fees for use of the directory and the system of access provided for under section 4101, except that use of the directory and the system shall be made available to depository libraries without charge. The fees received shall be treated in the same manner as moneys received from sale of documents under section 1702 of this title.

"(b) COST RECOVERY.—The fees charged under this section should be set so as to recover the incremental cost of dissemination of the information involved, with the cost to be computed without regard to section 1708 of this title.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 44, United States Code, is amended by adding at the end the following new item:

"41. Access to Federal Electronic Information ..... 4101".

(c) SPECIAL RULE.—The directory and the system of access referred to in section 4101 of title 44, United States Code, as added by subsection (a), shall be operational not later than one year after the date of the enactment of this Act.

SEC. 3. FEASIBILITY STUDY BY THE SUPERINTENDENT OF DOCUMENTS.

(a) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, shall conduct a study of the feasibility of enhancing public access to Federal electronic information. In conducting the study, the Superintendent of Documents shall—

(1) consult the heads of departments and agencies of the Government, other users of Federal electronic information, and other persons likely to be affected by such enhanced public access;

(2) assess the maximum use feasible of computer systems, data storage systems, and retrieval software that are maintained by the departments and agencies of the Government to enhance access to Federal electronic information;

(3) determine the feasibility of providing access to Federal electronic information through a wide range of electronic networks, including the Internet and the National Research and Education Network;

(4) in consultation with the National Institute of Standards and Technology and other appropriate persons, study the development of compatible standards for *dissemination of Federal electronic information* throughout the Government.

(5) specify the development and maintenance costs of the directory and the system of access provided for under chapter 41 of title 44, United States Code;

(6) analyze the cost savings to be derived from the directory and the system of access; and

(7) obtain, *from the Comptroller General*, an independent evaluation of the utility and efficiency of the directory and the system of access.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Superintendent of Documents shall submit a

report of the study to the Congress. The report shall include, as a separate part, the evaluation referred to in subsection (a)(7).

(c) DEFINITION.—As used in this section, the term "Federal electronic information" means Federal public information stored electronically.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. ROSE] will be recognized for 20 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, this is another historic moment in the House. We are about to consider a bill which will require the Government Printing Office to make the CONGRESSIONAL RECORD and the Federal Register available electronically to millions of Americans who use depository libraries throughout the country. The timing and the technology are just right for this initiative. It will test GPO's ability to use technology efficiently;

It will test the utility of electronic products for use by depository libraries; and it will provide important and necessary public access. Our committee, and the Senate Rules Committee, held a joint hearing on July 23d. We have testimony from dozens of witnesses—from the printing and information industries, to the library community and academic institutions, to the research and technology community, and the administration. The committee worked with all of these interests, and this bill has made an effort to accommodate everyone.

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

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

Mr. Speaker, at a time when taxpayers can file their taxes electronically and access numerous information bases, both public and private, for their computers at home, it is time for us to increase the access of the public to information of the Federal Government in electronic form; so I rise today to support H.R. 5983, which is a giant step in that direction.

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

Mr. ROSE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. ROSE] that the House suspend the rules and pass the bill, H.R. 5983, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5983, the bill just passed.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY TASK FORCE ON THE HOLDING OF AMERICANS AS HOSTAGES IN IRAN IN 1980

Mr. ROSE, from the Committee on House Administration, submitted a privileged report (Rept. No. 102-930) on the resolution (H. Res. 512) providing amounts from the contingent fund of the House for expenses of investigations and studies by the Task Force to Investigate Certain Allegations Concerning the Holding of Americans as Hostages in Iran in 1980 in the second session of the One Hundred Second Congress, which was referred to the House Calendar and ordered to be printed.

NATIONAL AIR AND SPACE MUSEUM EXPANSION SITE SELECTION ACT OF 1992

Mr. FROST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3281), to establish the National Air and Space Museum Expansion Site Advisory Panel for the purpose of developing a national competition for the evaluation of possible expansion sites for the National Air and Space Museum, and to authorize the Board of Regents of the Smithsonian Institution to select, plan, and design such site as amended.

The Clerk read as follows:

H.R. 3281

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Air and Space Museum Expansion Site Selection Act of 1992".

SEC. 2. NATIONAL AIR AND SPACE MUSEUM EXPANSION SITE ADVISORY PANEL.

(a) ESTABLISHMENT AND DEADLINE.—There is established a panel to recommend to the Board of Regents of the Smithsonian Institution an expansion site for the National Air and Space Museum. The panel shall—

(1) be known as the "National Air and Space Museum Expansion Site Advisory Panel"; and

(2) complete its work not later than one year after the date of the enactment of this Act.

(b) SITE PROPOSALS AND CRITERIA.—

(1) IN GENERAL.—As part of the recommendation process, the Panel shall—

(A) in a nationwide competition, obtain proposals for expansion sites; and

(B) develop and promulgate criteria for site evaluation.

(2) CRITERIA.—The criteria referred to in paragraph (1)(B) shall include—

(A) long-term costs, including capital, operational, and administrative costs;

(B) access to operational runway facilities;

(C) ready accessibility to the public; and

(D) other administrative and curatorial factors related to the storage, management, and display of the Smithsonian Institution's collection of aircraft and spacecraft.

The criteria may not include the proximity to the District of Columbia, except that administrative and curatorial advantages of a site in the District of Columbia region may be included.

(c) REPORT.—Not later than the deadline specified in subsection (a), the Panel shall submit to the Congress and the Board of Regents a report that—

(1) evaluates each proposal submitted to the panel under subsection (b) in light of the criteria promulgated under that subsection; and

(2) contains a single recommendation of an expansion site for the National Air and Space Museum.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Panel shall be composed of 9 members, who shall be appointed not more than 2 months after the date of the enactment of this Act as follows:

(A) 4 individuals from private life appointed by the Speaker of the House of Representatives, the minority leader of the House of Representatives, the President pro tempore of the Senate, and the minority leader of the Senate, acting jointly;

(B) one Member of the House of Representatives appointed by the Speaker of the House of Representatives and one Member of the House of Representatives appointed by the minority leader of the House of Representatives;

(C) one Senator appointed by the President pro tempore of the Senate and one Senator appointed by the minority leader of the Senate; and

(D) one individual appointed by the Secretary of the Smithsonian Institution from among the officers and employees of the Smithsonian Institution.

(2) GEOGRAPHIC DIVERSITY.—Two of the members appointed under paragraph (1)(A) shall be individuals who reside and work in States with territory that is west of the Mississippi River.

(3) CONTINUATION OF MEMBERSHIP.—A member appointed under paragraph (1)(B), (1)(C), or (1)(D) who ceases to hold the position on which membership is based may continue as a member for not longer than 60 days after the date on which the member ceases to hold the position.

(4) TERMS AND VACANCIES.—Members shall be appointed for the life of the Panel and any vacancy shall be filled in the manner in which the original appointment is made.

(5) PAY AND TRAVEL.—Members from private life shall serve without pay and the other members shall not receive additional pay by reason of service on the panel. Members shall be entitled to receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) QUORUM AND PROCEDURES.—A majority of the members shall constitute a quorum, but a lesser number may hold hearings. The panel shall be responsible for selecting its officers and otherwise establishing procedures for the conduct of its business.

(f) EXPERTS AND CONSULTANTS; DETAILS.—The Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the maximum annual rate of basic pay payable for grade GS-18 of the General Schedule. Upon request of the Panel, the head of any department or agency of the United States may,

on a reimbursable basis, detail personnel to assist the Panel in carrying out its duties under this Act.

(g) HEARINGS AND RELATED MATTERS.—The Panel may—

(1) hold hearings, sit and act at appropriate times and places, take testimony, and receive evidence;

(2) administer oaths and affirmations to witnesses; and

(3) authorize any member or agent of the Panel to take any action which the Panel is authorized to take under this section.

(h) MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as departments of the United States.

(i) OFFICIAL INFORMATION AND ADMINISTRATIVE SUPPORT.—Upon the request of the Panel—

(1) the heads of departments and agencies of the Government shall furnish information to the Panel; and

(2) on a reimbursable basis, the Administrator of General Services shall provide to the Panel administrative support services and office space necessary for the Panel to carry out its responsibilities.

(j) CONTRACT AUTHORITY.—The Panel may enter into contracts for research, surveys, and other services.

(k) TERMINATION.—The Panel shall cease to exist 30 days after the date on which the Board of Regents of the Smithsonian Institution selects the expansion site under to section 4.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Amounts shall be available to carry out section 2 only to the extent such amounts are made available in advance in appropriations Acts.

SEC. 4. SELECTION OF THE NATIONAL AIR AND SPACE MUSEUM EXPANSION SITE.

(a) IN GENERAL.—The Board of Regents of the Smithsonian Institution shall select an expansion site for the National Air and Space Museum in accordance with subsection (b). The Board may conduct planning and design activities with respect to such expansion site only to the extent that amounts for such activities are made available in appropriations Acts enacted after the date of the enactment of this Act.

(b) SELECTION REQUIREMENTS.—In selecting an expansion site, the Board of Regents shall consider—

(1) the criteria developed by the Panel pursuant to section 2(b); and

(2) the recommendation of the expansion site submitted by the Panel pursuant to section 2(c).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

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

Mr. Speaker, H.R. 3281 establishes an advisory panel for the purpose of developing a national competition to select a site for the National Air and Space Museum expansion.

This legislation was introduced in response to the concerns raised regarding the process employed by the Smithsonian Institution in its selection of a site for the National Air and Space Museum expansion.

After reviewing the report of the on-site visit made by the staffs of both the committee and of the subcommittee, it became apparent that an urgent need exists for additional storage, preservation and exhibition space in order to ensure that the historic aircraft and artifacts of the National Air and Space Museum are adequately housed and properly protected.

But at the same time, it also became apparent that grave concern had surfaced about the equitability of the Smithsonian's processes for selecting one site over competing sites.

Consequently, the investigation was expanded by visiting one of the proposed alternate sites for the expansion and by conducting additional interviews with the Smithsonian and other interested parties.

At the hearing on H.R. 3281, compelling testimony was presented regarding the monetary benefits to the Smithsonian of conducting an open competition; at that time, it also was revealed that the timetable for completing the site evaluation process would not necessarily delay the construction of the expansion.

The concept of the Smithsonian Institution operating a museum or an expansion outside of Washington is not new. In fact, the Institution already operates the Cooper-Hewitt Museum in New York, and plans an off-the-Mall expansion of the National Museum of the American Indians in the next 3 years.

Since the H.R. 3281 hearing, certain significant concerns regarding this legislation have been raised, among which are:

First, there is some questions as to whether H.R. 3281 encroaches upon the decisionmaking authority of the Board of Regents of the Smithsonian Institution;

Second, the site selection process has already run its course, and may not need to be repeated in toto; and,

Third, the entire project, the formation and operating costs of conducting the competition may be far too costly relative to the benefits it would yield.

First, the bill does not encroach on the Board of Regents' decisionmaking authority. In fact, this bill sets up a new site selection process to make nonbinding recommendations to the Smithsonian Board of Regents.

Second, this process is not redundant. Rather, it offers to all our States and localities the first fair and equitable opportunity to compete for the site of the expansion of the National Air and Space Museum.

And finally, as to the costs; the fact that the Smithsonian had chosen research methods previously which have resulted in costs in excess of $450,000 to analyze three sites, is no indication that the advisory panel cannot establish an equally fruitful method at one-half or one-quarter of that cost.

Estimates of $5 to $7 million have been forwarded for this project, but to estimate the cost of operating this panel based on an extrapolation of the way the Smithsonian does business, forecloses the exploration of more economic measures.

Furthermore, much of the responsibility for preparing proposals will in the end devolve to the individual States and localities competing for the expansion site, where most of the information has already been compiled and collated.

Like the Smithsonian, which spent its own money and had an interest in the direction results would take, each of the competing States and localities will spend their money and will have accomplished the lion's share of the research and analysis. This distribution of the efforts of research and analyses over a so much broader spectrum would afford the States and localities an opportunity equal to that enjoyed by the Smithsonian to highlight the advantages of the sites each would bring to the table. This distribution of effort would also result in each State or locality spending far less to research and analyze than the Smithsonian would have had to spend.

Therefore, since we will not have to rely on independent contractors to research and analyze the sites, I reject the argument that this project is too costly based simply on the Smithsonian's estimates.

I urge my colleagues to support and adopt H.R. 3281, as amended.

□ 1250

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

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

Mr. Speaker, let me say that I am in a unique position here in that some of my friends are for this bill and some of my friends are opposed to it, and I am for my friends.

Now I am accustomed to North-South conflicts, but this really is an East-West conflict. There is a very good reason and rationale for putting the Smithsonian exhibit here in Virginia, and there have been very compelling arguments for putting it elsewhere, someplace other than had been originally proposed.

But, as I said, I am for my friends.

Mr. Speaker, I yield 7 minutes to the gentleman from Virginia [Mr. WOLF], one of my friends.

Mr. WOLF. Mr. Speaker, this bill is a disgrace.

This bill, the American people should know, is a pork barrel bill. The Board of Regents have on five different occasions, beginning in 1983, selected with the responsibility to site this extension at Dulles Airport. Five different occasions.

Now who are the Board of Regents? The gentleman from Mississippi [Mr. WHITTEN], the chairman of the Committee on Appropriations, and I do not think my colleagues are going to question Mr. WHITTEN's integrity, the gen-

tleman from California [Mr. MINETA], the new chairman of the House Committee on Public Works and Transportation, the gentleman from Pennsylvania [Mr. MCDADE], the ranking member of the committee, Mr. MOYNIHAN, Mr. SASSER, and Mr. GARN. This issue has been debated over and over and over.

The Congress made a mistake when they helped Denver with regard to the new airport. Now Denver does not know what to do with Stapleton. They have hired a lobbyist, and my colleagues should know that if they vote for this bill, they are voting with a lobbyist who has manipulated and changed this whole process.

I will say to my colleagues that the people in Denver listening today ought to ask, "Why did your Government have to hire lobbyists to come and pervert the process that this Congress is going through, to distort what's been going on. Thirty-eight thousand to influence this disgraceful pork barrel bill."

Second, Mr. Speaker, let me tell the Members: "If you vote for this bill, don't go home on Sunday night or Monday night and tell your constituents, whether you be from Denver or whether you be from somewhere else, that you care about the deficit, and you're a big budget cutter, and you want to do what's right."

This bill adds $5 to $7½ million additional to duplicate a process that has already been completed.

I also want my colleagues to know that if passed, this bill is going to be vetoed. This bill will be vetoed. Let me read from a letter from the nonpartisan Board of Regents from the Smithsonian.

The Smithsonian Institution is opposed to the bill because it is inconsistent with the authority and the objectives of the Institution's Board of Regents, redundant of a carefully considered site selection process that has already taken place and very costly.

Second, what the Smithsonian has said is:

The Smithsonian has spent almost $450,000, in addition to staff time, to analyze sites in Virginia, Maryland, and Colorado. Because many communities are interested in economic development, benefits perceived to be associated with the Institution, 40 or 50 proposals could well be received if the bill is enacted.

The sponsor of the bill and his "Dear Colleague" letter gives my colleagues the impression that if they support this bill, they may get a museum in their region. In fact, as the "Dear Colleague" headline says, "Here's your chance to get a Smithsonian Museum in your district."

The Smithsonian continues:

To assure the same level of analysis utilized in the initial reviews, the proposed site selection panel, which would appear to be established within the legislative branch, would require $6 to 7½ million in addition to funding for staffing, cost, travel per diem in lieu of subsistence, which could range from 2 to 2.5.

So, we are talking about a minimum $7, maybe $9½ million additional.

Then the Smithsonian letter goes on to say its management has been given to a Board of Regents which includes three Members of the House: Mr. WHITTEN, Mr. MINETA, and Mr. MCDADE, and three Members of the Senate, Mr. MOYNIHAN, Mr. SASSER, and Mr. GARN, as well as the Chief Justice, the Vice President, and nine citizens. The Board of Regents is not an advisory group. It bears full responsibility as trustees for carrying out the Smithsonian trust.

The letter continues that in September 1983 the Regents first considered a proposal to replace the inadequate, outmoded structures near Suitland, MD, that currently house the restoration laboratory, exhibition production and maintenance services, archives and collections storage functions of the National Air and Space Museum. In the years since, the Institution has conducted a number of described studies of various options, as well as the analysis.

And the letter closes: "It would be inappropriate to use Smithsonian resources to engage in an expensive site selection process and to raise public expectations,"—and that is what is happening. We are raising public expectations on something that we know is not going to happen. We ought to be candid about it and say it—"to raise public expectations about museum expansion for what there is neither justification nor the prospect, of the substantially increased levels of Federal program and operating funds that it will require."

In closing, this is one of the reasons why this body is beginning to be held in such low regard. This is a pure political raid, to be able to take something home to demonstrate that my colleagues were able to manipulate the Congress.

□ 1300

I ask every Member, do not vote for this bill. Do not vote for this bill and then go back home and say that you care about the deficit or support a line-item veto or a balanced budget. This bill wastes taxpayer dollars and politicizes a process that has never been politicized for as long as the Smithsonian has been in existence.

SMITHSONIAN INSTITUTION,
Washington, DC, September 25, 1992.

Hon. CHARLES ROSE,
Chairman, Committee on House Administration, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I note that on September 23rd the Committee ordered reported H.R. 3281, as amended, which would provide for the selection of an expansion site for the National Air and Space Museum. The Smithsonian Institution is opposed to the bill because it is inconsistent with the authority and the objectives of the Institution's Board of Regents; redundant of a carefully considered site selection process that already has taken place; and very costly. If H.R. 3281 were presented to the President, I would recommend that he veto the bill.

The Smithsonian has spent almost $450,000, in addition to staff time, to analyze sites in Virginia, Maryland, and Colorado. Because many communities are interested in economic development benefits perceived to be associated with the Institution, forty or fifty proposals could well be received if the bill is enacted. Thus, to assure the same level of analysis utilized in the initial reviews, the proposed site selection panel, which would appear to be established within the Legislative Branch, would require $6,000,000 to $7,500,000 in addition to funding for staffing costs, travel, and per diem in lieu of subsistence which could range from $2.0 to $2.5 million.

The Smithsonian is a trust instrumentality of the United States. The origins of the Institution are in the Act of July 1, 1836 (5 Stat. 64) in which Congress accepted the trust created by the Will of James Smithson, an English scientist who died in 1829, and pledged the faith of the United States that all monies involved in the trust would be received and applied to the establishment of the Institution ". . . for the increase and diffusion of knowledge" as set forth by Mr. Smithson.

The Act of August 10, 1846 (9 Stat. 102) chartered the Smithsonian in its present form and entrusted its management to a Board of Regents which includes three Members of the House (Mr. WHITTEN, Mr. MINETA, and Mr. MCDADE) and three Members of the Senate (Mr. MOYNIHAN, Mr. SASSER, and Mr. GARN), as well as the Chief Justice, the Vice President, and nine citizens. The Board of Regents is not an advisory group; it bears full responsibility as trustee for carrying out the Smithson trust. It sets Institution policy and oversees the management of Smithsonian assets and activities. This independent authority, however, is exercised subject to the obligations imposed by law on all trustees: the obligation to exercise good judgement in carrying out trust purposes; to be faithful to the trust; to exercise prudent oversight of trust activities; to maintain strict records of trust assets; and to be prepared to justify their stewardship to all proper authorities.

The Regents, as public trustees, over the years have made a series of decisions about activities of the Institution that assist in the fulfillment of its mandate "for the increase and diffusion of knowledge. . ." Since the 1960s they have recognized the need for an extension to the National Air and Space Museum because in planning for the Museum's building on the Mall it became clear that it would not have the capacity to accommodate the entire collection of the Museum, allow for additions to it, or provide adequate support services.

The Regents anticipated that another structure at a nearby location ultimately would be required if the Museum was to honor its mandate to "collect, preserve, and display aeronautical and space flight equipment of historical interest and significance." Such a structure always has been viewed as extending the on-going activities of the Museum on the Mall, rather than providing for any programmatic expansion of them.

In September, 1983 the Regents first considered a proposal to replace the inadequate and outmoded structures near Suitland, Maryland that currently house the restoration laboratory, exhibition production and maintenance services, archives, and collections storage functions of the National Air and Space Museum on the Mall. In the years since, the Institution has conducted a number of studies of various options, as well as the analyses previously described.

In February of 1991 the Smithsonian and the General Accounting Office (GAO) began a series of discussions about the extension project which centered on the manner in which the Institution had conducted its site selection process and the assumptions on which its needs were based. In a statement prepared for the Subcommittee on Libraries and Memorials in July, 1991, the GAO summarized those discussions which resulted in a more careful definition of the Institution's proposal; clarified the need for the nearby location; and provided a discounted, thirty-year life-cycle analysis which demonstrated that the costs of implementing the project at Washington Dulles International Airport would be substantially less than those at other locations. The GAO concluded that "the Smithsonian's choice of Dulles can now be objectively defended. . ."

Inasmuch as the Fiscal Year 1993 appropriation for Smithsonian operations is not sufficient to maintain its activities at current levels, we are engaged in a comprehensive organization realignment that will include staff and program reductions, the streamlining or combining of various programs, and certain alterations in public services. It would be inappropriate to use Smithsonian resources to engage in an expensive site selection process and to raise public expectations about museum expansion for which there is neither justification nor the prospect of the substantially increased levels of Federal program and operating funds that it would require.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT MCC. ADAMS,
Secretary.

Mr. Speaker, H.R. 3281, the national museum sweepstakes bill, exemplifies what is wrong with Congress in the eyes of the American people.

H.R. 3281, takes a purely educational program and throws it into that huge pork barrel that is helping drive our national deficit up at the rate of $1.9 billion every day.

This bill takes a decision made by the nonpartisan Smithsonian Board of Regents and throws it in the trash. In its place, this bill would mandate a costly nationwide competition that would cost a minimum of $5 million. It comes as no surprise that the bill does not specify where that money will come from.

Because of crowded Mall facilities, the Board of Regents, acting under its vested authority, has been trying for the last decade to build an extension to the Air and Space Museum to properly house and exhibit such artifacts as the *Enola Gay*, the S.R. 72 spy plane, and the space shuttle *Enterprise*. No less than five times, the Smithsonian board has voted to locate this extension at Washington Dulles International Airport. In fact, the space shuttle is already housed there in a temporary warehouse.

It is common sense that such an extension of the Mall facility should be in close proximity for two reasons. Number 1, it holds down expenses because the extension of the main Mall can be supervised by and staffed with personnel from the main Mall facility. In terms of overhead and personnel costs, locating this museum extension far away from the main Mall facility will cost the American taxpayer twice as much annually as an extension in the Washington region.

Second, most of the families that come to the Nation's capital from all over the Nation have the Air and Space Museum at the top of their sightseeing list. These families ought to have the opportunity to also see some of history's most important contributions to modern aviation, many of which are too large to be housed on the Mall.

In addition to cost. H.R. 3281 means more delay, on top of the 10 years that already have passed while Congress has been haggling over this decision and micromanaging the deliberations of the Smithsonian Regents. During that decade, scores of American children have grown up and gone off to college without the privilege of viewing some of these historic artifacts. And remember, while Congress is standing in the way of this program, these artifacts are deteriorating and housing spiders in various warehouse facilities.

Is it any wonder that the public holds the Congress in such low esteem?

I urge my colleagues to say "no" to micromanagement and higher costs. Vote "no" on H.R. 3281. Save the American taxpayers millions of dollars. And, for our children, unlock the door to some of our Nation's history.

Mr. FROST. Mr. Speaker, may I inquire, how much time do I have remaining?

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Texas [Mr. FROST] has 15 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from Colorado [Mr. SKAGGS], the author of the legislation.

Mr. SKAGGS. Mr. Speaker, as the prime sponsor of H.R. 3281, the National Air and Space Museum Expansion Site Selection Act, I urge my colleagues to join me, a bipartisan coalition of more than 40 cosponsors, and the House Administration Committee in supporting this important legislation.

H.R. 3281 will set up a national competition to select the location of the Smithsonian Institution's National Air and Space Museum [NASM] extension—a facility that will house aviation treasures like the space shuttle *Enterprise*, a Concorde jet, and the *Enola Gay*. This legislation has the potential to save the Federal Government $100 or $200 million or more.

As some of my colleagues may know, the Smithsonian wants to locate the extension at Dulles Airport. However, many of us feel that the process used to pick that site was not fiscally prudent, fair, or comprehensive. That's the way the General Accounting Office sees it, too.

By way of example, over 2 years ago, the city of Denver, along with community and business leaders, put together a plan to build the NASM extension at no capital cost to the Federal Government—a plan that could save the Federal Government as much as $160 million in capital and operating costs. Given the budget climate around here, any proposal that has the potential for saving that kind of money is worthy of serious consideration. But that didn't happen. The Smithsonian rejected it out of hand.

And there may be even better proposals out there that haven't yet surfaced. The problem is, the current site-selection process would shut them out, too. That's just not the way we should do business. And that's why I'm convinced we need to do something.

And I might add, it's a little ironic to see such a misleading "Dear Colleague" from my friend and colleague from Virginia, declaring that this bill would cost $5 million. That's a number the Smithsonian pulled from thin air—when in fact there is documentation that this bill could save over $100 million.

Those of us who don't believe the Smithsonian's site-selection process has been fair are in good company. As I mentioned, the GAO concluded in a 1991 report that the Smithsonian's selection process:

* * * Cannot be relied upon to objectively defend the selection of Dulles. A fair and reasonable way to assure it has selected the best site and maximized the incentives received from localities would be for the Smithsonian to use a more formal, systematic, and cost-conscious process.

The bill before the House today would set up just such a process.

Our approach would not only end up saving the Federal Government money, but would also give more States the chance to compete for the museum. And that's important. Beyond questions of cost and good process, there are philosophical issues concerning the national equity and the national interest in having the Smithsonian's facilities located almost exclusively in the Washington, DC, area.

The Smithsonian admits it will have to address the issue of geographic diversification in the future, but refuses to do so on the NASM extension facility. I believe it's time to begin the future now.

It's hard to quantify fairness. Still, statistics show that though most of the Nation's population lives west of the Mississippi, proportionately few of them ever are able to visit the Smithsonian's museums. Western citizens pay their fair share of taxes to support the Smithsonian, yet too often are unable to share in its National treasures. Western States should have the opportunity—at the very least—to compete for the NASM facility.

The bill we're considering today provides only for a fair shot for interested sites outside the Washington, DC area, with an objective process to determine what's in the National interest. Our bill would, first, set up a panel to develop fair criteria to judge proposals, second, invite States and cities to compete for the facility, and third, provide for an objective review of the proposals and for a final site selection.

Mr. Speaker, the Smithsonian Institution receives approximately 85 percent of its funds from U.S. taxpayers. I believe, therefore, that we in Congress have the responsibility to insist on an open site-selection process that permits fair consideration of all legitimate, competitive options.

Finally, I want to express my sincere thanks to Chairman BILL CLAY and CHARLIE ROSE, and the gentleman from Texas [Mr. FROST] for their hard work and interest in this important issue. Chairman CLAY held a series of comprehensive hearings on this legislation before determining that the approach incorporated in H.R. 3281 was the best course to pursue. I'm grateful for his thoughtful consideration. I also appreciate the consistent support of Interior Appropriations Chairman SID YATES.

Based both on the potential for significant savings in scarce federal dollars, and a need to strike a better regional balance in the distribution of national resources, I urge my colleagues to join me in supporting the National Air and Space Museum Expansion Site Selection Act of 1991.

Mr. DICKINSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, Let me say that here we are involved with the politics of sour grapes. We as a House are asked to come down here and overturn this very extensive process because Denver did not get the Air and Space Museum.

Denver got itself in a big bind. They wanted to build a new airport, one just a little bit bigger than their present airport, and it cost them tons of money to operate the new airport and they are going to leave Stapleton Airport like a ghost town. We went through this whole process, and in fact the gentleman from Colorado asked the GAO to look at the site selection process and do a study, and in a letter to the chairman of the Interior Subcommittee, the gentleman from Illinois [Mr. YATES], they said:

> We now believe the choice of Dulles International Airport as the preferred site can be objectively defended by the Smithsonian.

So I do not know which study of the GAO the gentleman is quoting. Maybe it is one that was done a long time ago.

But let us talk about what the gentleman said, that it is going to cost us $100 million to extend the Air and Space Museum to a facility out at Dulles Airport. Let me look at the figure, the real figures. It is true that the one-time cost out at Dulles is going to be about $167 million versus Denver's $152 million, but what the gentleman did not tell us is that $50 million of that $167 million is coming from the State of Virginia, so that Federal taxpayers are only going to have to spend about $117 million versus $152 million by the Federal Government taxpayers.

□ 1310

But the most important part is the annual cost. The annual cost is going to be $9.5 million a year at Dulles, versus $16.5 million a year at Denver, annually. It is almost double the cost to run it in Denver.

Then in the study done for Denver's cost of operation, where they very conveniently got it down below what it would cost to build the same facility at Dulles, they put in there a renovation cost at Stapleton of $4 a square foot.

Now, if one believes they can renovate anything in this country for $4 a square foot, then they ought to vote for this bill, because it costs anywhere from $15 to $20 a square foot to renovate any building in this country.

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

Mr. DELAY. I would be glad to yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, as the gentleman knows, this legislation does not put this museum at Denver. It creates a national competition.

Mr. DELAY. Mr. Speaker, reclaiming my time, I understand that, and that is not the point I was making that the gentleman from Colorado [Mr. SKAGGS] rose on. The point was that the gentleman said this is going to cost the Federal taxpayer $100 million more to build it in Dulles. So the gentleman is just totally wrong and uses figures that have been skewed to make it look like it is going to be cheaper to build it in Denver than it is going to be to build it outside of Washington at Dulles.

The Smithsonian does not want to build a brand new facility for the Smithsonian. The Smithsonian, as has been said, has gone through an extensive bipartisan process to pick this new site. The Smithsonian only requires a Washington location for a new facility, like Suitland out there, which would be an extension of the existing museum, rather than to duplicate it out in Denver.

With the nearby entity the collection, which is the museum's core, could be consolidated, documented, preserved, and exhibited as a whole. It will cost less money to put it at Dulles than it will to bail out Denver.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I want to begin by complimenting the gentleman from Colorado [Mr. SKAGGS] for his hard work on this.

Mr. Speaker, I want to go right immediately to where the last speaker, the gentleman from Texas [Mr. DELAY], left off. This does not have anything to do with bailing out Denver. This is about a very important issue. Is the Smithsonian, which is funded by taxpayers from all America, is it allowed to let the rest of America to compete, or is it kept here as a private club for people who can then afford to visit? After they have sent their tax money here, will they have enough money left to get on an airplane and fly here to visit it?

I have to remind Members over and over again this is not a country, it is a continent. It is a very, very large continent. I realize how painful it is for people to see those of us in other parts saying "Let us at least be able to have a competition on this."

There is absolutely no one who is saying who is going to win the competition. My guess is very many cities will apply, because the prestige of having an air and space museum run by the Smithsonian would be very great.

Mr. Speaker, the tremendous opportunity to spread some of these national treasures out and to spread them out at the lowest possible cost to the taxpayers and also make them available to the average person by having them more geographically diverse is very, very hard to quarrel with, unless you live here and have been used to having all this culture nicely locked into this corridor. I think it is nice for the people who live here and have access to it. But for the average person to come here or bring their family here, these are some of the highest cost hotels, the highest cost tickets to get in here, and the highest cost eating expenses, and so forth. Members have all seen statistics showing that the average family cannot get here and spend very many days. It is very costly.

Mr. Speaker, if one realizes that this tremendous collection of items at the Air and Space Museum came from all over the country, that they did not just come from this area, why do we have to keep them all in this area and have them available only for those who can afford to come here?

This bill is an excellent bill. The Government Accounting Office is saying this is the way we ought to do it. Why not have a national competition? It is just like open bidding. We are supposed to have that on all Government contracts. Where is it written that the Government cultural events can only be in Washington, DC, or their immediate environs? I do not think it is written anywhere, and I think it is time we realize how this country has grown, how the population has shifted, and how other parts of the population have contributed very much to the history of aviation and also would like to be able to share in that.

Mr. Speaker, I salute the gentleman and urge an aye vote on the bill.

Mr. DICKINSON. Mr. Speaker, how much time does each side have remaining?

The SPEAKER pro tempore (Mr. McDERMOTT). The gentleman from Alabama [Mr. DICKINSON] has 8 minutes remaining, and the gentleman from Texas [Mr. FROST] has 6 minutes remaining.

Mr. DICKINSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise today in opposition to H.R. 3281, the National Air and Space Museum Expansion Site Selection Act.

In July 1836, more than 150 years ago, Congress accepted a trust from Mr. James Smithson, an English scientist, "to establish an institution in Washington for the increase and diffusion of knowledge by man." The Government received this money in return for accepting its provisions, one of which was clear and unequivocal that the institution be established in the Washington area.

This trust has given this Nation one of its most treasured assets, the Smithsonian Institution.

Few visitors come to the Nation's Capital without visiting this great institution.

Its collections are as impressive as they are extensive.

And in 1976, when the Smithsonian opened the doors of the National Air and Space Museum, it began to chronicle America's historic leadership in human flight and space achievement.

Today, the National Air and Space Museum is the most popular museum in the Nation and perhaps the world.

Unfortunately, this proposal to create a national site selection contest, divorced from the judgment of their Board of Regents, will undermine efforts to house this collection's larger artifacts and exhibits.

Visitors who come to Washington to see the Wright brothers plane will be told they will have to book a flight somewhere else to see the space shuttle and the *Enola Gay*.

Mr. Speaker, this is wrong.

The proposal before you today sells itself as an economic development opportunity.

It demeans the intent of James Smithson's trust and subverts the authority of the Smithsonian Board of Regents, six of whom are members of Congress, that has already completed its own site selection process.

This sets a dangerous precedent.

Should we dismantle the current Smithsonian collections and disperse them across the Nation for the sake of a municipality's bid to spur its economy?

I would hope not.

Enactment of this legislation would also add costly delays to a process that has already denied a generation the opportunity to see this important collection.

There are also additional tax expenditures to consider.

The competition the legislation envisions could cost up to $5 million, although the legislation does not specify where the funds will come from.

Moving the collection from its present warehoused locations around the Metropolitan DC region will cost millions more.

And, staffing the operations of two separate facilities will cost more millions.

At a time of tight budget constraints, this proposal doesn't make good fiscal sense.

Throughout the Smithsonian's site selection process it recognized the strong interests of numerous communities across the United States which would like to have an extension of the Air and Space Museum in their communities.

Many of these communities were visited by the Smithsonian Regents and their staff.

In January 1990, the Regents voted and reaffirmed Dulles Washington International Airport as the most appropriate site.

The logic behind this selection was obvious: Such a site was within a short drive, and before too long will be linked by light rail, to the Smithsonian Museum on The Mall.

The location, adjacent to the Washington Dulles International Airport, is on Federal property, making it site neutral.

And, the Commonwealth of Virginia has offered significant economic assistance to meet the Smithsonian's infrastructure and transportation needs.

The problem with the proposal before us today is that it would reopen the bidding on a process that already has been reviewed by the Smithsonian Board of Regents—a board made up of three of our esteemed colleagues of the House, Mr. WHITTEN, Mr. MINETA, and Mr. McDADE, three Members of the Senate, Mr. MOYNIHAN, Mr. SASSER, and Mr. GARN, the Vice President, the Chief Justice of the Supreme Court, and nine private citizens from across the country.

This Board was not governed by bias in choosing the Dulles site but by responsible fiscal, logistical, and managerial considerations.

Please reaffirm their decision and do not reopen this site selection process.

□ 1320

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS], just to show that I am yielding to friends on both sides.

Mr. THOMAS of Wyoming. Mr. Speaker, I am on the other side. I come from a different part of the country where I think maybe we ought to share a little bit in some of the activities that go on here.

I am a little confused. I would say to my friend from Virginia [Mr. WOLF] that I thought the Smithsonian was a national treasure. I sort of thought it was financed by the taxpayers from throughout the country. It is not something that is exclusively for northern Virginia. I did not realize that the funds that supported it came only from one part of the country. It seemed to me that they come from all over.

Mr. Speaker, it would seem to me that a process that might bring a little bit more diversity into it might not be a bad idea. Forty percent of the people live west of the Mississippi. Only 3 percent of them visit Washington. Tourism numbers are declining here. They are increasing in the West. I do not think it would be a bad idea to take a look at something else.

That is what I think we ought to do, put in a process that takes a look at some other areas, and takes a look at the West. We have some things to offer there. It would be kind of nice if folks were able to look at some of their national treasures without coming across the country.

Mr. FROST. Mr. Speaker, I yield 2 additional minutes to the gentleman from Colorado [Mr. SKAGGS].

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

Before we close on this, Mr. Speaker, I just think it is important to clarify some very important points in this. If there is a pork barrel aspect to this, it is the status quo, which would just ratify the Regents' single decision, repeated several times, that this ought to go conveniently into the northern Virginia area, represented by my friends from northern Virginia.

The question about Denver's interest in this is clearly conceded. What we are doing, however, is not proposing siting this facility anywhere, but opening up a competition so that there can be a fair and objective site selection, and if the merits of the Dulles site are as overwhelming as these gentlemen suggest that they are, I would expect that Dulles will do quite well in that open and objective competition.

However, to invoke the Regents, as if they are tantamount to the Holy Grail in this process, also ignores at least the questions that have been raised about conflict of interest within the Board of Regents, not the congressional Members, in making this decision.

We are not divorcing the process from the Regents' ultimate authority. In fact, the nature of this bill is to offer a final recommendation to the Regents, but it is their decision. It would not split any existing collections but merely take advantage of the unique opportunity we have now, with a new museum being proposed, to put it perhaps somewhere other than in the Washington area.

Finally, we need to realize that this is not going to delay anything. There are simply no moneys available in the

current budget circumstance to begin this project unless we can find someplace much less expensive than the Dulles site at which to site it. Otherwise, we are going to be facing years and years of delay before the deficit is brought into a position where we can afford this kind of major capital expense for the Smithsonian.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, let me say that nobody is saying what should or should not go wherever. This was bid on and competitively bid on five times. People have looked at this carefully, not discriminating against Wyoming or the West, but in a fair, objective way.

Second, I think the Congress ought to know that Denver has hired a lobbyist on this issue for $38,000. Virginia did not hire a lobbyist. The Board of Regents did not hire a lobbyist. We did not get involved in the process. We let the Regents do their job without influence. No one from Virginia got involved.

The gentleman from Mississippi [Mr. WHITTEN] is not from Washington, DC. The gentleman from California [Mr. MINETA] is not from Washington, DC. The gentleman from Pennsylvania [Mr. MCDADE] is not from Washington, DC. The Board of Regents has carefully considered this.

This bill, H.R. 3281, has politicized the process as we get close to the election. I would tell my colleagues on both sides, this is not a partisan issue. But to pretend that it is not a battle by Denver to fill up an empty airport, Stapleton Airport, and put something there so the citizens of Denver can say, "Look, at least we got something." I would say to the gentleman from Wyoming [Mr. THOMAS], the site for the museum extension was voted on five different occasions. It was done in a fair way.

The State of Virginia did not hire any lobbyists, and Denver did. We say, "Let it go, and wherever it goes, it goes." Once the decision is made, then I think this body ought not to come in and interfere.

Mr. DICKINSON. Mr. Speaker, I yield myself the 1 remaining minute to close debate.

Mr. Speaker, I really have no dog in this fight as far as a regional area being concerned, but I am concerned about the process. I do not care whether we have it in Colorado or whether we have it in San Diego or here in Virginia or in Maryland, but I am concerned about the process.

We have set up a Board of Regents. They have made an objective, as far as I can tell, study. The people on there are certainly not biased toward Virginia, I do not think. I think what we are doing is subverting a process that has been put in place. For that reason I will oppose the bill and support the decision of the Regents.

I think that is what the ultimate decision should be, not whether we are for the West or for Colorado over Virginia, but are we going to support the decision of the Board of Regents, which is fair and objective. I think they have done the best they could for all concerned.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman again for yielding time to me.

Mr. Speaker, I just want to set the record straight on a couple of issues. Yes, the city of Denver did hire a lobbyist. The gentleman from Virginia [Mr. WOLF] is absolutely correct. Actually, it was a controversial decision in Denver as to why they would hire a lobbyist for an open competition. That is really rather startling. Very few cities hire a lobbyist to have an open competition so that all cities in America could compete.

If this bill were to pass, it says there will be a national competition. Second, they had no choice, because let me say that the other side was being lobbied with Federal money. They were not called lobbyists, but it is called the Smithsonian congressional relations.

There was an idea that all of these wonderful facilities that are here in Washington, DC belonged to the people here, and it is like a goose that lays golden eggs for this region. I understand that, but I am only saying there are a lot of people who cannot get here to share in the things that they are funding here.

We are not talking about dispersing things or transporting things. We are talking about where should the expansion of this be. I think where the expansion of the population has gone ought to be able to bid and say, "We ought to have a piece of the expansion," because this great Nation has expanded since the trust was created. There was not even any such thing as aviation when the trust was created. If we went back to the original Thirteen Colonies and what the original everything was, believe me, this country would be a lot different.

I am just saying, this is a new Nation. I come from the West, where people really believe the Federal Government should have competition. If the State of Virginia has such a great idea, they can bid like everyone else. This was a bid in-house. We are now saying let us have it open. Government is not a fungus. It can thrive in sunshine, even the Smithsonian.

Mr. FROST. Mr. Speaker, in conclusion, Mr. McC. Adams, in the Smithsonian magazine, stated the view recently that it was time for the Smithsonian to start considering dispersing some of its collection; specifically, to areas distant from Washington, DC.

□ 1330

All this legislation does is permit a serious consideration to the proposition first put forward by the Secretary of the Smithsonian himself.

Mr. DORNAN of California. Mr. Speaker, I rise in strong support of H.R. 3281, which would establish an advisory board to conduct a nationwide search and competition to select a site for expansion of the Smithsonian's National Air and Space Museum.

For those not familiar with this issue, the Air and Space Museum here in Washington, DC, is too small to display all of the many outstanding aircraft within the Smithsonian's collection. In order to allow the public access to these additional aircraft, the Smithsonian would like to open another museum site. However, rather than allowing the entire Nation to compete for this new location, museum officials have sought to keep the new site here in the Washington, DC, area without even looking at any other deserving areas around the country.

Although the Air and Space Museum has thrilled millions of visitors from around the world, many in our districts are unable to travel to Washington to view these displays of our truly unique American aviation heritage. By limiting a new museum to the Washington area, we will also limit the number of Americans who can view these magnificent displays of man's ingenuity and courage in the design and flight of aircraft. However, this bill, H.R. 3281, would open up a nationwide competition for the new Air and Space Museum site. Just think of the millions of more people that could enjoy the riches of the museum collection if a new site was located on our west coast or in the Midwest.

Perhaps the advisory board created by this bill will end up choosing a location here in the Washington area. However, if we do not pass this legislation, we may never know the benefits of considering hundreds of other deserving locations around the country, locations that could increase the chance of every citizen in our great Nation experiencing the rich aviation heritage that has helped make the United States a world military and economic superpower.

I urge all of my colleagues and all the citizens of this country to join me in supporting DAVE SKAGGS of Colorado and H.R. 3281, the National Air and Space Museum Expansion Site Advisory Panel.

Mr. BARRETT. Mr. Speaker, in 1981 the Smithsonian Museum staff began the search for a location for an annex for the popular Air and Space Museum. The extension is needed to replace the inadequate and out-of-date structures near Suitland, MD, that house the staff and facilities critical to the efficient operations of the museum on The Mall. The most urgent need was to provide permanent storage for the largest airplanes and spacecraft that were too big for the museum on The Mall.

Since the investigation of possible sites began, the Smithsonian Board of Regents has reaffirmed Dulles as the preferred site on five occasions. Now, 11 years later, we are considering a bill that will begin the entire selection process over again.

There are 535 Members of Congress who could probably build a great case as to why

their district and State would make a great place for a Smithsonian Museum. So, this bill proposes to make a contest out of the site selection. And, my colleagues, as you dream about bringing home the grand prize, you'll have to just overlook the fact that the Smithsonian only needs a storage facility, not an entirely new museum to maintain. Never mind that the Smithsonian has estimated that this competition itself will cost over $5 million. Never mind the fact that by passing this legislation, Congress will micromanage the decisions of the Smithsonian Board of Regents, which is duly vested by law to make site determinations. Just forget that nearly $450,000 has already been spent to evaluate possible sites. But, as we wake up to the reality of an out-of-control deficit and wasteful Government spending, I ask how can my colleagues close their eyes to these facts, and still claim to be responsible lawmakers?

Proponents of this competition claim that reopening the site selection will ultimately save taxpayer money because the contest will supposedly generate offers from certain communities who will be willing to foot the bill to build the facility. However, keeping this presumptuous argument in mind, let's consider the cost of the legislation at hand.

The Smithsonian estimated cost of this competition keeps growing and growing. In a September 25, 1992, letter to House Administration Committee Chairman, Mr. ROSE, Secretary Robert McC. Adams states, "the proposed site selection panel, which would appear to be established within the legislative branch, would require $6,000,000 to $7,500,000 in addition to funding for staffing costs, travel, and per diem in lieu of subsistence which could range from $2.0 to $2.5 million." That's a pretty hefty wager to place on an assumption.

I have tried to keep an open mind when considering this legislation—and personally I can certainly see the merits of bringing an expansion to the Midwest. However, this is not about spreading the Smithsonian's treasures throughout the country. The Smithsonian has plans for the geographical diversification of their collections, and this does not fit within their budget constraints. Unfortunately, as with most of the legislation we consider, it all comes back to money, and this is not a responsible way to spend it.

The bottom line is that this competition is being set up to help Members bring home a big piece of pork at the Smithsonian's expense. Whatever support various communities can produce to build their case for the selection process would be quickly outweighed by the long-term operating costs which would cause a burden on the Smithsonian's other programs and museums.

I cannot justify taking more taxpayer dollars to complete a job that has already been done. Our goal should be to protect our national treasures, and instead the politics plaguing our decisionmaking process has allowed those treasures to sit rotting at the run-down building where they have been stored for the past 11 years. The passage of this legislation would delay construction on this extension for at least 2 years. Looking at our past track record, the decision of this panel could very likely be contested again, further delaying proper storage. By the time Congress finally authorizes a site, we may not have any historic artifacts left to display. I urge my colleagues to defeat H.R. 3281.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and pass the bill, H.R. 3281, as amended.

The question was taken.

Mr. DICKINSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONSUMER PROTECTION TELEMARKETING ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3203) to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3203

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Protection Telemarketing Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact. Telemarketers can also be very mobile, easily moving from State to State.

(2) Interstate telemarketing fraud has become a problem of such magnitude that the resources of the Federal Trade Commission are not sufficient to insure adequate consumer protection from such fraud.

(3) Consumers and others are estimated to lose $1 billion a year in telemarketing fraud.

(4) Consumers are victimized by other forms of telemarketing deception and abuse.

(5) Consequently, Congress should enact legislation that will offer consumers necessary protection from telemarketing deception (including fraud) and abuse.

SEC. 3. TELEMARKETING RULES.

(a) IN GENERAL.—

(1) The Commission shall prescribe rules prohibiting deceptive (including fraudulent) telemarketing activities and other abusive telemarketing activities.

(2) The Commission shall include in such rules respecting deceptive telemarketing activities—

(A) a definition of deceptive telemarketing activities, and

(B) criteria that are symptomatic of deceptive telemarketing as distinguished from ordinary telemarketing business practices.

(3) The Commission shall include in such rules respecting other abusive telemarketing activities a requirement that telemarketers may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy. In prescribing the rules described in this paragraph, the Commission shall consider—

(A) including a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided with such period, a refund be required, and

(B) including, where practicable, authority for a person who orders a good or service through telemarketing to cancel the order within a specified period.

(b) RULEMAKING.—

(1) The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(2) A rule issued under subsection (a) shall be considered a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices.

(d) SECURITIES AND EXCHANGE COMMISSION RULES.—

(1) PROMULGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 6 months after the effective date of rules promulgated by the Federal Trade Commission under subsection (a), the Securities and Exchange Commission shall promulgate rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing activities by persons described in paragraph (2).

(B) EXCEPTION.—The Securities and Exchange Commission is not required to promulgate a rule under subparagraph (A) if it determines that—

(i) Federal securities laws or rules adopted by the Securities and Exchange Commission thereunder provide protection from deceptive and other abusive telemarketing by persons described in paragraph (2) substantially similar to that provided by rules promulgated by the Federal Trade Commission under subsection (a); or

(ii) such a rule promulgated by the Securities and Exchange Commission is not necessary or appropriate in the public interest, or for the protection of investors, or would be inconsistent with the maintenance of fair and orderly markets.

If the Securities and Exchange Commission determines that an exception described in clause (i) or (ii) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.

(2) APPLICATION.—

(A) IN GENERAL.—The rules promulgated by the Securities and Exchange Commission under paragraph (1)(A) shall apply to a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company, or any individual associated with a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company. The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in the preceding sentence.

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) the terms "broker", "dealer", "transfer agent", "municipal securities dealer", "municipal securities broker", "government securities broker", and "government securities dealer" have the meanings given such terms by paragraphs (4), (5), (25), (30), (31), (43), and (44) of section 3(a) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (25), (30), (31), (43), and (44));

(ii) the term "investment adviser" has the meaning given such term by section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)); and

(iii) the term "investment company" has the meaning given such term by section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)).

(e) COMMODITY FUTURES TRADING COMMISSION RULES.—

(1) APPLICATION.—The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in subsection (f)(1) of section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a).

(2) PROMULGATION.—Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), not later than 6 months after the effective date of rules promulgated by the Federal Trade Commission under section 3(a) of the Consumer Protection Telemarketing Act, the Commission shall promulgate rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing activities by any person registered or exempt from registration under this Act in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisory, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person.

"(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

"(A) rules adopted by the Commission under this Act provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 3(a) of the Consumer Protection Telemarketing Act; or

"(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.".

SEC. 4. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule of the Commission under section 3, the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under section 3, no State may, during the pendency of such action instituted by the Commission, institute a civil action under subsection (a) against any defendant named in the Commission's complaint for acts or omissions alleged in the complaint for violation of any rule as alleged in the Commission's complaint.

(e) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State for protection of consumers and who are designated by the Commission to bring an action under subsection (a) against persons that the Commission has determined have or are engaged in a pattern or practice of telemarketing which violates a rule of the Commission under section 3.

SEC. 5. ACTIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Commission under section 3 or an authorized person acting on such person's behalf may, within 3 years after discovery of the violation, bring a civil action in an appropriate district court of the United States against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Commission under section 3, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(c) ACTIONS BY THE COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under section 3, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(d) COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(e) CONSTRUCTION.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 6. CLEARINGHOUSE.

(a) IN GENERAL.—The Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement such section) to anyone making inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

(b) LIABILITY FOR PROVIDING INFORMATION.—No person who provides information to the clearinghouse established under subsection (a) shall be liable for damages for the provision of such information unless such person provided such information knowing it to be false.

SEC. 7. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided in sections 4 and 5, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 3 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "attorney general" means the chief legal officer of a State.

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale,

(B) includes the business address of the seller,

(C) includes multiple pages of written material or illustrations, and

(D) has been issued not less frequently than once a year,

where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

SEC. 9. REVIEW.

Upon the expiration of 5 years following the date of the enactment of this Act, the Federal Trade Commission shall review the implementation of this Act and its effect on deceptive telemarketing activities and report the results of the review to the Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. MCMILLAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, the sale of goods and services over the telephone has proven to be a cost-effective way for many legitimate businesses to reach potential customers. These legitimate telemarketing activities provide useful service to both business operations and their customers. Regulating legitimate, mutually beneficial activities is not the purpose of this legislation. What this legislation goes after are those unscrupulous telemarketing activities where no one benefits but the perpetrator.

The telephone has become a powerful weapon in the hands of those with a persuasive message and a desire to steal. From a boiler room operation perhaps thousands of miles away, a long hand can reach out and into a consumer's pocket. Fraudulent telemarketers have already gotten past the consumer's front door and into their homes every time they make a phone call. When the day of reckoning comes, and consumers discover they have been ripped off, all too often the fraudulent telemarketer has left behind a rented room, a few phone lines, and no forwarding address.

And it is not only consumers, but businesses and financial institutions that suffer loss. At a hearing before my subcommittee, MasterCard and VISA in a joint statement outlined the problem:

MasterCard and VISA believe that telemarketing fraud losses will continue to mount without an effective federal legislative response to this national problem. State and local enforcement agencies * * * have initiated actions against fraudulent telemarketers only to be frustrated by state law jurisdictional limits. These jurisdictional limits make it difficult to prosecute or obtain relief from fraudulent telemarketers who locate their operations outside the states in which their victims are located or move frequently to avoid detection and prosecution under state law.

The National Consumer's League—which administers a telemarketing coalition of over 80 industry associations and law enforcement agencies—states that reported losses due to telemarketing fraud now amount to $15 billion per year. The Federal Trade Commission estimates that actual losses may run as high as $40 billion per year. The National Consumers League has sent a letter to every Member urging support of this legislation. The National Association of Attorneys General have also written every Member stating the unanimous support of all 50 State attorneys general in support of this bill.

This legislation reflects these concerns of law enforcement agencies, consumer groups, and affected financial institutions. H.R. 3203 directs the FTC to undertake a rulemaking to prohibit fraudulent, deceptive, and abusive telemarketing activities. It will also allow State attorneys general and other State consumer agencies to use the powers of this act to target fly-by-night telemarketers who make deceptive long distance telemarketing calls and then skip across State lines before State authorities are able to stop them under State law. The bill also allows private rights of action in limited circumstances, and directs the FTC to establish a clearinghouse of information so that consumers can better protect themselves.

This is good legislation for consumers who lose billions every year to telemarketing fraud; for the Federal Trade Commission and our State legal officers who need the tools in this bill to ferret out these telemarketing boiler rooms; and for legitimate businesses who are being exploited by fraudulent and deceptive telemarketers. I strongly urge my colleagues to pass this necessary consumer legislation.

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

Mr. DINGELL. Mr. Speaker, I rise in strong support of this legislation and urge my colleagues to support it.

I commend the gentleman from the State of Washington, the distinguished chairman of the Subcommittee on Transportation and Hazardous Materials, for his strong and able leadership in bringing this legislation to the floor of the House today. As the author of the bill, Chairman SWIFT has taken an active interest in protecting the rights of consumers from unscrupulous telemarketing fraud artists. I also commend the ranking Republican of our full committee, Mr. LENT, and the ranking Republican of the Subcommittee on Transportation and Hazardous Materials, Mr. RITTER for their significant contributions to this needed legislation.

This bill is the product of many years of bipartisan efforts. Numerous hearings in our committee, a multitude of analyses and reports from Federal and State investigators, enforcement agencies, and consumer protection bureaus, as well as scores of media investigations and reports, have underscored the need for this overdue legislation.

The problem, quite simply, is the greed of scam artists who use the telephone to peddle phony and deceptive schemes to unwary and vulnerable consumers. Numerous examples of these schemes were described in a report released last summer that was sponsored by the National Consumers League, along with the active support of MasterCard, VISA, Citibank's credit card subsidiary, and MCI. According to the report, 9 out of 10 Americans have been approached by telephone scam artists, and 3 out of 10 have responded at some time to these fraudulent and deceptive offers. These schemes range from postcards or phone calls that promise consumers they already have won a big prize to telephone calls that promise help for parents to recover child support payments from deadbeat ex-spouses to solicitations for dirt-cheap land where bogus deeds are provided to the unfortunate consumer. These fraudulent schemes prey on the vulnerable and the unsuspecting, including the elderly, the poor, children, and those with a poor command of the English language, and provide direct access at all times of the day and night to anyone who has a telephone.

The costs of the problem are enormous. The Alliance Against Fraud in Telemarketing—a coalition of more than 80 industry associations and law enforcement agencies—reports that annual losses due to telemarketing fraud exceed $15 billion. The Federal Trade Commission [FTC] has estimated that actual consumer losses may run as high as $40 billion per year. Other estimates put the figure at $70–$80 billion per year. Because of the embarrassment of admitting that one has been bilked, it is clear that most estimates of telemarketing fraud are understated. It is also clear, from the committee's numerous investigations and hearings, the problem continues to proliferate.

In general, there are three classes of victims of telemarketing fraud: First, actual consumers and purchasers; second, credit card companies, that often must absorb the credit charge when the purchaser discovers the fraud and refuses to pay the charge; and third, legitimate telemarketing companies, that not only lose sales to fraudulent firms but also suffer generally from the disrepute that such fraudulent firms bring to legitimate telemarketing practices. The legislation seeks to address unfair and deceptive telemarketing practices to help all three classes of victims.

The FTC has taken the lead in attempting to combat telemarketing fraud. As of May 1, 1991, as stated in testimony before the Subcommittee on Transportation and Hazardous Materials, the FTC had brought over 66 tele-

marketing fraud cases in Federal district court, "halting fraud by companies with sales of over $912 million." These actions were brought under current FTC authority that prohibits unfair and deceptive acts or practices in or affecting commerce under section 5 of the FTC Act. But these actions may involve expensive and time-consuming court battles as to whether a firm's telemarketing practices in fact should be deemed "unfair or deceptive" and require the Commission only to pursue such actions in Federal district court. H.R. 3203 will give the FTC the additional authority it needs to protect the interests of consumers and others who are affected by telemarketing fraud, as well as creating a partnership of enforcement efforts with the States. The bill directs the Commission to promulgate rules prohibiting deceptive—including fraudulent—and other abusive telemarketing practices. In developing these rules, the Commission is directed to include requirements to prohibit unsolicited telephone calls that a reasonable consumer would consider to be coercive or abusive of privacy rights. The bill gives State's attorneys general authority to enforce the Commission's rules and to obtain damages, restitution, and other appropriate relief, as well as allowing private parties to bring cases in Federal district court in certain situations.

I also wish to express my appreciation to Mr. DE LA GARZA and Mr. ENGLISH, the chairman of the Committee on Agriculture and the chairman of the Subcommittee on Conservation, Credit, and Rural Development, respectively, for their cooperation in ensuring that persons involved in commodities and futures trading are covered by substantially similar requirements developed by the FTC under the terms of the legislation. The amended version of the bill today includes a provision developed by the Committee on Agriculture that is based on section 18 of the FTC Act and that is the functional equivalent of a provision, section 3(d) of the bill, that our committee developed that covers the securities industry. I ask unanimous consent that the letters exchanged between our two committees that indicate the understanding we have reached be inserted into the RECORD following this statement. Finally, I also would note that section 3(d) of the bill requires the Securities and Exchange Commission [SEC] to promulgate "substantially similar" rules to those promulgated by the FTC. This does not mean that the SEC rules must be exactly the same as the FTC rules, but that the SEC rules should offer investors and consumers a comparable level of protection to that provided by the FTC rules, taking into account the specific circumstances of the securities industry.

This bill is supported by a wide range of interests, from the National Association of Attorneys General to the National Consumers League and other consumer associations, and from the American Association of Retired Persons to MasterCard and VISA.

In summary, Mr. Speaker, this legislation will ensure that the full range of enforcement and regulatory tools will be available to Federal, State, and private parties in fighting telemarketing fraud and abuse. I strongly urge my colleagues to support this needed legislation and look forward to working with Mr. HOLLINGS, chairman of the Senate Committee on Commerce, Science, and Transportation, and Mr. BRYAN, chairman of the Senate Consumer Subcommittee, to enact consensus telemarketing legislation prior to the adjournment of this Congress.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 25, 1992.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Energy and Commerce reported H.R. 3203, relating to telemarketing, on November 20, 1991, and filed a report thereon on July 22, 1992 (H. Rpt. 102-688). We have asked that the bill be listed for consideration on the suspension calendar early next week.

Since filing our report, our Committee has been developing an amendment to the bill that will treat persons subject to the jurisdiction of the Securities and Exchange Commission in a substantially similar manner that banks and financial institutions are treated under section 18 of the Federal Trade Commission Act. My staff has provided a copy of the proposed amendment to your staff, and our staffs have commenced informal discussions with an eye toward allowing the Committee on Agriculture to craft a similar amendment to cover persons subject to the Commodities Futures Trading Commission (CFTC).

If you wish, we would be pleased to include such a CFTC amendment in the suspension vehicle we bring to the floor next week so that commodities transactions will be treated no less favorably or more favorably than securities transactions. We recognize, of course, that the Committee on Agriculture would have jurisdiction over such a CFTC amendment.

I trust this process will allow our Committees to bring the bill, as amended, to the floor next week and hopefully will give our Committees the opportunity to complete discussions with the Senate Committee on Commerce, Science, and Transportation on a final bill prior to the end of this Congress.

Your assistance in this matter is greatly appreciated.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, September 29, 1992.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This is with reference to your letter regarding H.R. 3203, the Consumer Protection Telemarketing Act, and the inclusion in that bill of an amendment regarding the regulation of telemarketing in the commodity markets when the bill is considered under a motion to suspend the rules. As you know, clause 1(a) (18) of Rule X of the Rules of the House of Representatives provides that the Committee on Agriculture has sole jurisdiction over commodity exchanges. The Committee believes that the amendment enclosed herewith—developed through consultations between our Committees—will serve as a valuable addition to the important legislation reported by the Committee on Energy and Commerce.

Section 3 of H.R. 3203, as reported, requires that the Federal Trade Commission (FTC) prescribe rules prohibiting deceptive (including fraudulent) telemarketing activities and other abusive telemarketing activities. As you know, section 2(a)(1)(A) of the Commodity Exchange Act (CEA) provides that the Commodity Futures Trading Commission (Commission) has exclusive jurisdiction with respect to transactions involving contracts of sale of a commodity for future delivery.

The Committee on Agriculture will support including the enclosed amendment in H.R. 3203 to ensure that customers targeted by entities registered under the CEA will be afforded similar regulatory protections from deceptive and abusive telemarketing activities as will be provided to other consumers under the bill reported from the Committee on Energy and Commerce. The amendment also provides protections for commodities customers parallel to those provided to investors in securities markets by the proposed modification to the bill that requires the Securities and Exchange Commission to regulate the telemarketing activities of individuals registered under the securities laws.

Specifically, the amendment provides that rules promulgated by the FTC under the bill are not to apply to persons who are futures market participants registered or exempt from registration under the CEA. In addition, it adds a new section 6(f) to the CEA to require that not later than 6 months after the promulgation of telemarketing rules by the FTC, the Commission is required to promulgate rules that prohibit deceptive and abusive telemarketing activities by any entity acting in his or her capacity as a registrant subject to regulation under the CEA. The rules promulgated by the Commission are required to be substantially similar to the rules promulgated by the FTC. An exception is included to provide that the Commission is not required to promulgate a new rule if it determines that rules already adopted by the Commission provide sufficient protection, or that such a rule is not necessary or appropriate in the public interest or for the protection of customers in the futures and options markets.

The Committee on Agriculture supports the inclusion of the enclosed amendment in H.R. 3203 and will support your request that the bill, as modified, be eligible for consideration under a motion to suspend the rules. Of course, it would be our expectation that members of the Committee on Agriculture would be appointed to serve as conferees regarding this provision and any provision passed by the Senate which relates to the regulation of commodity exchanges. In the event that amendments between the Houses are addressed without the appointment of a conference committee, I would expect our Committee to be included in discussions regarding the process of disposing of such amendments, as has been the practice between our committees in the past.

I am grateful for your cooperation and assistance in this matter and commend you and your Committee for your efforts on this important legislation.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

AN AMENDMENT TO H.R. 3203 OFFERED BY MR. DE LA GARZA

At the end of section 3 of the bill (page 4, after line 16) add the following new subsection:

(e) COMMODITY FUTURES TRADING COMMISSION RULES.—

(1) APPLICATION.—The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in subsection (f)(1) of section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a).

(2) PROMULGATION.—Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a) is amended by adding a new subsection (f) to read as follows:

"(f)(1) Except as provided in paragraph (2), not later than 6 months after the effective date of rules promulgated by the Federal Trade Commission under section 3(a) of the Consumer Protection Telemarketing Act, the Commission shall promulgate, or require each registered futures association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing activities by any person registered or exempt from registration under this Act in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person.

"(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

"(A) rules adopted by the Commission under this Act provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 3(a) of the Consumer Protection Telemarketing Act; or

"(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.".

Mr. McMILLAN of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3203. I want to commend our committee leadership for the diligent effort that produced this bipartisan legislation. I especially want to compliment our chairman, Mr. DINGELL; our ranking Republican member, Mr. LENT; the Transportation Subcommittee chairman, Mr. SWIFT; and our ranking subcommittee member, Mr. RITTER.

Telemarketing fraud is currently inflicting a $40 billion a year toll on American consumers and businesses, according to Federal Trade Commission estimates. This is an outrageous and unacceptable burden on our economy. Those harmed are not merely the consumers who are taken in by deceptive practices, but also legitimate businesses who lose sales and prospective customers due to the bad experiences of telemarketing fraud victims.

Among those often caught in the middle are the credit card companies, who through no fault of their own, are left holding the bag when charge-backs from fraudulent transactions cannot be collected. And we all know that when this kind of uncollectible and fraudulent cost is inflicted on a business, both the business and its customers must ultimately bear that burden.

This legislation is constructed around a core concept of State-Federal cooperation. The Federal Trade Commission is directed to adopt antifraud rules to combat deceptive telemarketing practices. At the same time, both the FTC and State attorneys general are given new and much-needed enforcement tools to apprehend and prosecute telemarketing fraud operations before they can flee the long arm of the law. The FTC will also maintain a central information clearinghouse to enable consumers and law enforcement officials to check up more easily on any past offenses by fraudulent and deceptive telemarketers. Besides providing useful information, this clearinghouse will be able to draw upon the extensive data that can voluntarily be made available by the national credit card operations, who are among the principal victims of fraudulent telemarketing practices.

Finally, this legislation specifically directs the FTC to include in its rules a profile of fraudulent telemarketing—the characteristics or symptoms of deceptive operations that will help consumer and law enforcement official alike to recognize more easily the hallmarks of a telemarketing scam.

This is carefully targeted, constructive, bipartisan legislation, unanimously approved by the Energy and Commerce Committee. I strongly urge its approval.

Mr. RITTER. Mr. Speaker, I want to commend the leadership of the Energy and Commerce Committee—our chairman, Mr. DINGELL; our ranking Republican, Mr. LENT; and our Transportation Subcommittee chairman, Mr. SWIFT—for their diligent efforts to fashion this constructive, bipartisan legislation.

It sometimes seems that Federal legislation is an answer in search of a problem. But not in this case. Almost everyone has encountered—or knows someone who has encountered—some of the shady boiler room operators who use the telephone to deceive and defraud Americans in their homes. The most recent estimate of the Federal Trade Commission is that this kind of nefarious activity cost Americans $40 billion every year. And all too often, the victims include those least able to fend for themselves—the young, the elderly, and the disabled.

Federal legislation is needed, because one of the recurring problems in this area has been the ability of fraudulent telemarketing operations to flee across State lines and avoid prosecution. This bill will help correct the situation by strengthening the partnership between Federal enforcement by the Federal Trade Commission and State prosecutions of fraudulent telemarketers. It will also allow victims of fraudulent telemarketing actions to pursue the wrongdoers through civil actions in the Federal courts.

The FTC will also adopt rules to help identify fraudulent telemarketing practices, and to aid in antifraud enforcement efforts at both the State and Federal levels.

While conferring these much-needed enforcement tools on the Nation's consumer-protection officials, we should not lose sight that we are not only protecting American consumers: We are also protecting legitimate American businesses who responsibly use telemarketing as a modern business tool.

After all, the telephone has made it possible to conduct business virtually without regard to the location of the buyer and the seller. Telemarketing allows a business to make much better use of its personnel and other resources, and to respond quickly to consumer demands and interests.

But it only takes a few bad apples to endanger the reputation of a growing and vibrant industry. By helping our State and Federal officials root out fraudulent practices, we will help preserve the integrity and reputation that are so vital to any competitive, consumer-oriented industry. In this respect, the legislation we are considering today fits hand-in-glove with our efforts—of which I am strong supporter—to use modern telecommunications technology to enhance and improve the productivity and competitiveness of American industry.

I strongly support this legislation and urge its prompt approval.

Mr. LENT. Mr. Speaker, I wish to commend my colleagues on the Energy and Commerce Committee, particularly chairman, Mr. DINGELL, Transportation Subcommittee chairman, Mr. SWIFT, and ranking subcommittee member, Mr. RITTER, for their constructive, cooperative efforts to fashion this important bipartisan legislation.

Telemarketing fraud is a menace to the American consumer, and the integrity of legitimate American businesses. At present, the Federal Trade Commission estimates the take of crooked telemarketers at approximately $40 billion a year. This is an outrageous and unacceptable financial injury to Americans—especially to the elderly and the disabled, who are among the leading victims of such practices.

This legislation seeks to leverage the resources of Federal and State enforcement efforts in order to improve efforts to combat telemarketing fraud. At the Federal level, the Federal Trade Commission will be directed to adopt basic rules helping to identify and profile deceptive telemarketing practices. These rules will be the foundation for a cooperative State-Federal enforcement effort, which should help prevent what happens all too often today—the flight of telemarketing scam operations across a State line before it can be successfully prosecuted.

In most instances, the victims of telemarketing are individual consumers. But we should not overlook what our committee has learned in its hearings on telemarketing fraud in recent years—that many of the victims are businesses, often small- and medium-sized companies who can ill afford the loss. These firms may be targeted by phony office supply operators or others who seek to rely upon the good faith of the American business man to extract crooked profits. Similarly, fraudulent credit card sales by phone harm not only the credit card companies and the consumer victim, but also the very integrity of our credit and retailing system. Bad experiences with fraudulent operations merely make it that much harder for legitimate businesses to incorporate good faith telephone sales into their normal sales operations.

Many times, legislative actions at the Federal level have the effect of adding additional

burdens for the American consumer and the American businessperson. But in this bill, we are confident that we are helping to remove the dead weight of fraud and deception from an increasingly important sector of our economy—telephone sales.

I strongly support this legislation, Mr. Speaker, and urge its prompt approval.

Mr. McMILLAN of North Carolina. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3203, as amended.

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

A motion to reconsider was laid on the table.

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1392) to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1392

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "attorney general" means the chief legal officer of a State;

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

TELEMARKETING RULES

SEC. 3. (a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) PROHIBITION OF FRAUDULENT TELEMARKETING ACTS OR PRACTICES.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT ON STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 4. (a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OF PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

ACTIONS BROUGHT BY PRIVATE PERSONS

SEC. 5. (a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such case may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

VENUE

SEC. 6. Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SUBPOENA

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

FALSE ADVERTISEMENTS CONCERNING SERVICES

SEC. 8. Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

CLEARINGHOUSE

SEC. 9. The Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

FINANCIAL DATA

SEC. 10. Section 1109(a)(3) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409(a)(3)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reason of having been obtained in violation of law; or".

CRIMINAL CONTEMPT AUTHORITY

SEC. 11. Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

ADMINISTRATION AND APPLICABILITY OF ACT

SEC. 12. (a) ENFORCEMENT.—Except as otherwise provided in sections 4 and 5 of this Act, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges

and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EXEMPTION.—(1) No provision of this Act shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this Act shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a) (4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)).

LIFE CARE HOME STUDY

SEC. 13. (a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SUNSET

SEC. 14. The provisions of sections 3, 4, and 5 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

MOTION OFFERED BY MR. SWIFT

Mr. SWIFT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SWIFT moves to strike out all after the enacting clause of the Senate bill, S. 1392, and insert in lieu thereof the text of H.R. 3203 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3203) was laid on the table.

RADON AWARENESS AND DISCLOSURE ACT OF 1992

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3258) to improve the accuracy of radon testing products and services, to increase testing for radon in schools, to create a commission to provide increased public awareness of radon, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3258

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radon Awareness and Disclosure Act of 1992".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Environmental Protection Agency has determined that radon is second only to smoking as the leading cause of lung cancer, resulting in a central estimate of 13,600 deaths each year.

(2) Testing for elevated levels of radon in residential dwellings is relatively simple and inexpensive.

(3) There is not an adequate effort by Federal agencies to encourage testing for radon.

(4) Efforts to encourage testing have had disappointing results, reaching less than 4 percent of homes to date.

(5) The lack of a mandatory certification process leads to inaccurate testing, erosion of public confidence in the industry, and a waste of consumer investment.

(6) Increased public awareness of the risks of exposure to radon gas and the means to mitigate its effects will lead to more informed decision making and a more productive use of resources.

TITLE I—TWO-YEAR EXTENSION OF INDOOR RADON ABATEMENT PROVISIONS OF TOXIC SUBSTANCES CONTROL ACT

SEC. 101. 2-YEAR EXTENSION OF AUTHORIZATION.

The following sections of title III of the Toxic Substances Control Act (15 U.S.C. 2662 et seq.) are each amended by striking out "and 1991" and inserting in lieu thereof "1993, and 1994":

(1) Section 305(f).

(2) Section 306(j)(1).

(3) Section 308(f).

TITLE II—RADON TESTING

SEC. 201. PERFORMANCE PROGRAM FOR RADON PRODUCTS AND SERVICES.

(a) PERFORMANCE PROGRAM.—Title III of the Toxic Substances Control Act is amended by adding at the end the following new section:

"SEC. 312. PERFORMANCE PROGRAM FOR RADON PRODUCTS AND SERVICES.

"(a) TESTING PROGRAM.—(1) The Administrator of the Environmental Protection Agency shall establish a program requiring that—

"(A) any product offered for sale, or device used in connection with a service offered to the public, for the measurement of radon meets minimum performance criteria; and

"(B) any operator of a device, or person employing a technique, used in connection with a service offered to the public for the measurement of radon meets a minimum level of proficiency.

"(2) Such program shall include procedures for ordering the recall of any product sold for the measurement of radon which does not meet minimum performance criteria under paragraph (1)(A), for ordering the discontinuance of any service offered to the public for the measurement of radon which does not meet minimum levels of proficiency under paragraph (1)(B), and for establishing adequate quality assurance requirements for each person or company offering radon measurement services to the public.

"(b) MEASUREMENT EFFECTIVENESS; PUBLIC AWARENESS.—The Administrator shall develop and make each of the following available to the public:

"(1) A list of all radon measurement devices which meet minimum performance criteria under paragraph (1)(A) of subsection (a), together with information regarding the qualifying performance of each device.

"(2) A summary of current radon measurement technology, including descriptions and evaluations of existing measurement methods and devices used in testing schools, homes, and commercial buildings. Such summary shall include identification of those measurement technologies and practices most conducive to accuracy, tamper-detec-

tion and quality assurance in radon tests, including those conducted during real estate transactions.

"(b) CIVIL PENALTY.—Any person who violates the requirements of this section or who knowingly submits false information is liable for a civil penalty not to exceed $1,000 for each such violation.

"(c) USER FEE.—(1) The Administrator shall establish a schedule of user fees for persons who manufacture any product or device described in subsection (a)(1)(A) and for persons who operate a device or employ a technique described in subsection (a)(1)(B). The amount of such fees shall be designed to cover 50 percent of the annual operating costs of the Environmental Protection Agency for carrying out the program established under subsection (a) with respect to such persons until and including fiscal year 1996. After fiscal year 1996, the Administrator may apply such amounts to defray more than 50 percent of the program's operating costs but no more than the aggregate amount of such operating costs. Such fees shall be structured such that any person's liability for such fees is reasonably based on the proportion of the program's operating costs that relate to such person, and such person's liability for such fees shall not be based on the income of such person.

"(2) The Administrator may waive or reduce any fee established under paragraph (1) with respect to persons who agree to test for the presence of radon in public and nonprofit child care facilities, schools, hospitals, nursing homes, or other health care facilities.

"(d) USE OF FUNDS.—Amounts received for user fees under subsection (c) shall be deposited in a Radon Service Account established in the Treasury of the United States for use by the Administrator, to the extent provided in appropriations Acts, in carrying out the program established under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents for title III of such Act (contained in section 1 of such Act) is amended by adding at the end the following new item after the item relating to section 311:

"Sec. 312. Performance program for radon products and services.".

(c) CONFORMING AMENDMENT.—Subsection (a)(2) of section 305 of the Toxic Substances Control Act (15 U.S.C. 2665(a)(1)) is amended by striking out "the effectiveness of radon measurement devices and methods,".

SEC. 202. MEDICAL COMMUNITY OUTREACH.

(a) IN GENERAL.—Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 312:

"SEC. 313. MEDICAL COMMUNITY OUTREACH.

"(a) IN GENERAL.—The Administrator, in cooperation with the Secretary of Health and Human Services, shall develop and implement an outreach program to provide information about radon to the medical community.

"(b) INFORMATION.—(1) The Administrator, in consultation with the Secretary of Health and Human Services and the Surgeon General, shall develop informational material concerning radon tailored to doctors in general practice and in specialties related to lung cancer. Such information shall, at a minimum—

"(A) explain the health effects of exposure to radon;

"(B) explain the association of radon with smoking and other causes of lung cancer;

"(C) identify appropriate steps to determine exposure to radon in the home; and

"(D) identify sources of additional information.

"(2) Not later than one year after the date of the enactment of this section, the Administrator shall transmit the information developed pursuant to this section to—

"(A) doctors in the United States in general practice;

"(B) doctors in specialties related to lung cancer;

"(C) doctors employed by the Federal Government;

"(D) hospital administrators; and

"(E) other physicians and officials determined by the Administrator to be appropriate.

"(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Health and Human Services, shall report to Congress concerning the implementation of this section and recommendations for measures to improve radon information dissemination to the medical community.".

(b) CLERICAL AMENDMENT.—The table of contents for title III of such Act (contained in section 1 of such Act) is amended by adding at the end the following new item:

"Sec. 313. Medical community outreach.".

SEC. 203. STRATEGY TO IDENTIFY AND REDUCE EXCEPTIONALLY HIGH INDOOR RADON LEVELS.

(a) NEW SECTION.—Title III of the Toxic Substances Control Act is amended by adding the following new section after section 313:

"SEC. 314. STRATEGY TO IDENTIFY AND REDUCE EXCEPTIONALLY HIGH INDOOR RADON LEVELS.

"(a) DEVELOPMENT OF THE STRATEGY.—Within 9 months of the date of enactment of the Radon Awareness and Disclosure Act of 1992, the Administrator shall, in consultation with other Federal agencies and scientific experts in radon health effects, detection, and mitigation, using relevant and available information, develop and provide to Congress a strategy for identifying areas and buildings within the United States with exceptionally high levels of radon and for reducing such radon levels. The Administrator shall revise the strategy as necessary to incorporate additional relevant information.

"(b) IMPLEMENTATION OF THE STRATEGY.—No later than 9 months after the date of enactment of the Radon Awareness and Disclosure Act of 1992, the Administrator shall begin to implement the provisions of the strategy required under subsection (a).

"(c) REPORT TO CONGRESS.—21 months after the date of enactment of the Radon Awareness and Disclosure Act of 1992, the Administrator shall report to Congress on the results of Federal, State, and local efforts to implement the strategy developed under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents for such Act (contained in section 1 of such Act) is amended by adding the following new item after the item relating to section 313:

"Sec. 314. Strategy to identify and reduce exceptionally high indoor radon levels.".

SEC. 204. AMENDMENTS TO SECTION 306 OF TSCA.

Section 306 of the Toxic Substances Control Act is amended as follows:

(1) In subsection (e), strike "In the event that State applications for funds exceed the total funds available in a fiscal year, the" and insert "The".

(2) Amend subsection (e) to add the following new paragraph at the end thereof:

"(5) The potential for the activity or project to advance the strategy developed under section 314.".

(3) In subsection (f), strike "in the third year" and insert "thereafter".

SEC. 205. REPORT TO CONGRESS ON RADON TESTING.

(a) EVALUATION.—The Administrator of the Environmental Protection Agency shall evaluate current efforts to promote radon testing and ways to increase the use of radon testing during real estate transactions.

(b) REPORT.—(1) The Administrator shall report to Congress by October 1, 1993, on ways to improve the effectiveness of alternative strategies for promoting such testing, including consideration of each of the following:

(A) Grants to support development of radon testing strategies by States.

(B) Financial incentives.

(C) Testing and disclosure of radon levels during real estate transactions.

(D) Public awareness.

(E) Testing and disclosure of radon levels in the workplace.

(2) In preparing the report, the Administrator shall consult with concerned parties, including public interest groups, health officials, the radon testing industry, realtors, home builders, labor organizations, and States.

TITLE III—PRESIDENT'S COMMISSION ON RADON AWARENESS

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the President's Commission on Radon Awareness (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES OF COMMISSION.

The Commission shall—

(1) examine public awareness programs in effect on the date of the enactment of this Act which are—

(A) implemented through various segments of mass media; and

(B) intended to increase public awareness of the risks of exposure to radon and the benefits of testing for radon;

(2) act as an administrative and coordinating body for the voluntary donation of resources from—

(A) television, radio, cable communications, and print media;

(B) the health industry;

(C) the advertising industry;

(D) the business sector of the United States; and

(E) radon testing and mitigation organizations;

to assist the implementation of new programs and national strategies for dissemination of information intended to increase awareness of the risks of exposure to radon;

(3) encourage media outlets throughout the country to provide information aimed at increasing radon awareness, including public service announcements and advertisements; and

(4) evaluate the accuracy and effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

SEC. 303. MEMBERSHIP AND OPERATION OF COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this Act, and should include representatives of—

(1) advertising agencies;

(2) television, radio, cable communications, and print media;

(3) the health industry;

(4) other segments of the business sector of the United States;

(5) experts in radon health effects, testing, detection, and mitigation;

(6) the radon testing and remediation industry; and

(7) other Federal agencies, as designated by the President.

(b) TERMS.—

(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of 3 years.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(3) A member may serve after the expiration of the member's term until a successor to the member has taken office.

(c) BASIC PAY AND EXPENSES.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government services are allowed travel expenses under section 5703 of title 5, United States Code.

(d) PROCEDURES, MEETINGS, STAFF, ETC.—The Commission shall establish such rules regarding meetings, including rules regarding quorum, voting and procedure, and regarding staff, experts and consultants as the Commission deems appropriate. The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States. The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(e) REPORT.—The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

(f) TERMINATION.—The Commission shall terminate on a date which is 3 years after the date on which members of the Commission are first appointed, unless the President, by Executive order, extends the authority of the Commission.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. MCMILLAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 3258, the Radon Awareness and Disclosure Act, will reauthorize a much needed Federal program designed to protect Americans from radon gas, a naturally occurring, tasteless, odorless, invisible carcinogen that is found in varying degrees in almost every part of the country.

In my own State of Washington, 10 percent of the nearly 2,000 homes tested have been shown to have high levels of radon.

As reported by the Committee on Energy and Commerce, H.R. 3258 reauthorizes the Indoor Radon Abatement Act of 1988, and contains a number of provisions designed to focus the EPA's efforts in those areas of greatest risk.

The amendment changes the extension of authorization of appropriations from 3 years to 2 years.

It also requires EPA to develop and implement a strategy for identifying areas and buildings within the United States with exceptionally high levels of radon and for reducing such radon levels.

The amendment also changes the criteria for the State radon grant program by deleting current statutory language that requires EPA to prioritize grant applications only if the amount of money requested in these applications exceeds the amounts available for distribution through the program.

A new grant program criterion is added that requires EPA to consider the potential for the activity or project described in the application to advance the radon strategy.

The amendment deletes title III of the introduced bill, which required mandatory testing of school buildings for radon.

I would like to commend two of my colleagues on the committee, Mr. MARKEY and Mr. RINALDO, for introducing this legislation. Also, I would like to thank the gentleman from Michigan, the chairman of the full committee, Mr. DINGELL, for his assistance in the expeditious processing of this legislation, along with the gentleman from California, the chairman of the Health and Environment Subcommittee. I urge my colleagues to support H.R. 3258.

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

Mr. MCMILLAN of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. First, I would like to recognize the efforts of the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO].

I also want to commend the chairman of the Transportation and Hazardous Materials Subcommittee, Mr. SWIFT, and the chairman of the Subcommittee on Health and the Environment, Mr. WAXMAN, for their leadership on this bill.

Finally, the gentleman from Pennsylvania [Mr. RITTER], who has worked on the issue of radon for many years and who has made significant contributions to this legislation.

As the gentleman from Washington has already described, this bill will reauthorize EPA's indoor radon program for the next 2 years. It will also add several new components, including a mandatory certification program for radon testing devices, which the administration has endorsed, and several additional public information programs, including an expanded medical outreach program and a President's Commission on Radon Awareness.

Reauthorization of EPA's radon program is important because there is sufficient scientific evidence that at certain levels, radon gas presents a significant health risk. As EPA Administrator Reilly has said many times, we should be allocating our scarce Federal resources to address the most significant risks first. So I think it is appropriate that we encourage EPA to continue to address the most significant health risks.

The problem is that EPA's public education efforts have not been very effective. After the expenditure of millions of dollars, only about 4 percent of the homes in the United States have been tested for radon. That suggests that there is either a problem with the message or the messenger, or perhaps both.

Several months ago, EPA's Office of Policy, Planning, and Evaluation published in draft form the results of its review of EPA's indoor radon program. The report noted the public's "generally weak response" to EPA's public information program and suggested that EPA "must move beyond a program of nationwide public information efforts to achieve significant risk reduction."

The bill contains a provision that will help EPA to begin to refocus its program requiring EPA to develop a strategy for identifying areas and buildings with "exceptionally high levels" of radon.

This strategy should result in information and programs that the States can use to target their resources to identify and reduce the greatest risks first.

I urge my colleagues to support this legislation.

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

Mr. SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY], the author of this legislation.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for his leadership on the issue. Without his consum-

mate political ability to be able to move through a piece of legislation of this nature on such short notice, this would not be possible, and as well, the gentleman from California [Mr. WAXMAN], the gentleman from North Carolina [Mr. MCMILLAN], and the gentleman from Pennsylvania [Mr. RITTER] also helped to put together and frame this issue.

The reason that this is such an important issue is that sometimes what we do not know can kill us. Radon is one of those issues, one of those subjects, one of those kinds of hazy types of issues that we all know are important but people just do not know enough about it.

With the exception of cigarettes, radon is the second largest cause of lung cancer in the United States of America, second largest killer cause through lung cancer. It is an issue which results in more people being killed per year than all airplane crashes, all drownings, and all fires in the United States combined.

The legislation which we have here today will begin to put our country on a course which will help to identify and raise the consciousness of this issue so that people in our country can be protected. It is an issue and a bill which has been endorsed by the American Cancer Association, by the American Lung Association, by almost all major medical groups in the United States. It is an issue which I believe deserves the attention and the support of all Members in the body, and I would hope, as a result, that today we would see that as the response.

It briefly does three things. It, first, puts together a performance program for radon testing.

It has an extension of the State grant programs.

And it also creates a President's Commission on Radon Awareness.

It is a very, very good, important, timely piece of health legislation.

My wife is the chief of behavioral medicine at the National Institute of Mental Health. My wife tells me on an ongoing basis the most important thing we can do to prevent disease in this country, since we have cured most of the chronic illnesses that most people die from, our older generations in our country, we are now down to a point where the illnesses which most Americans suffer from are those which are avoidable. This is an avoidable illness which is the second largest cause of lung cancer in America.

With awareness, with education we can end it as a cause of cancer in our country. It seems to me we would not want to pass up that opportunity.

I want to thank everyone that I have mentioned thus far, but, as well, the gentleman from New Jersey [Mr. RINALDO], who was my cosponsor of the legislation, and the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and, again, the gentleman from Washington [Mr. SWIFT].

Mr. Speaker, what we don't know can sometimes kill us. That is why I rise today in strong support of the Radon Awareness and Disclosure Act.

Radon is an odorless, colorless, radioactive gas that is formed as uranium in the soil underneath house decays. It enters homes through cracks in the foundation or through pipes. When breathed in, radon breaks down in the lungs and releases dangerous radioactivity. Radon is second only to smoking as the leading cause of lung cancer in this country. The National Academy of Sciences and EPA estimate that radon gas causes approximately 14,000 lung cancer deaths in this country every year. Radon kills more people than do airplane crashes, drowning, and fires—added together.

EPA estimates that more than 1 in 10 households in this country are above the EPA radon action level. In my State of Massachusetts 23 percent of homes tested by EPA were above the action level. In Pennsylvania 40 percent of homes tested had levels of radon above the action level. That is 1½ million families in Pennsylvania potentially at risk. Other States have equally alarming numbers: Ohio 29 percent of homes, Minnesota 45 percent, Colorado 41 percent, Kansas 22 percent, New Mexico 22 percent, Indiana 28 percent.

What does a level of radon above the action level mean to the families in these homes? EPA estimates that a home above the action level produces the same lung cancer risks as receiving 200 chest x rays a year. For smokers, the risks are even greater. Testing of all homes has been urged by the National Academy of Sciences, the U.S. Surgeon General, and the American Medical Association. It is also supported by consumer and public health organizations including the Consumer Federation of America, the American Lung Association, the American Public Health Association, the American Cancer Society.

The average home can be tested for radon exposure for about $25, but sadly, less than 5 percent of the Nation's homes have been tested so far. For homes with high levels, it usually costs only a few hundred dollars to remove radon's risk. Testing and mitigating exposure to radon is one of our most cost-effective safety moves. With an ounce of prevention, we have an opportunity to address a serious health hazard that claims thousands of lives each year.

The only reason we are not dealing with this threat is ignorance and apathy. What we do not know, we will not worry about, even if it is killing us. Well, it is time to stop ignoring radon.

Let me briefly describe what the bill will do:

First, it protects consumers from fraudulent or inaccurate radon testing by requiring EPA or State certification of radon testing devices and services. In August 1990, the GAO recommended that EPA's certification program be mandatory since inaccurate testing was resulting in a loss of consumer confidence in the industry, fewer tests, and a waste of consumer resources.

Second, grants for State radon programs are extended for 3 years. The State grant program has been critical in getting information out to the public and creating radon programs tailored to the radon problem in each State while making the best use of EPA's technical expertise.

Third, it establishes a President's Commission on Radon Awareness. The Commission will draw the best talent to develop innovative ways to raise public awareness and increase testing. This easily preventable health threat that claims thousands of lives each year requires our immediate attention and action.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I am very pleased that today the House is considering legislation to curb one of the most serious environmental threats facing Americans—radon.

Radon is a radioactive gas that causes lung cancer. Federal environmental and health officials—including the Environmental Protection Agency, the Surgeon General, and the Centers for Disease Control—say that radon is the second leading cause of lung cancer in the United States.

The bill we consider today, H.R. 3258, contains important programs to fight radon. It will reauthorize State grant programs; direct EPA to establish minimum performance criteria for radon inspections; and promote awareness of the risks of radon.

There are other important programs that the Nation needs to confront radon risks. We need to warn families about radon hazards at real estate transactions, when families are the most likely to test for radon levels. We need Federal standards for radon abatement, not just for radon inspections. And we need to reduce radon levels in schools. It is my hope that Congress will soon turn to these important programs.

I want to commend the efforts of my colleagues. Congressmen MARKEY and RINALDO deserve special recognition for their efforts in developing H.R. 3258. Subcommittee Chairmen WAXMAN and SWIFT provided leadership throughout the consideration of this legislation. And Chairman DINGELL has once again demonstrated his commitment to address this important health and environmental issue.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 3258, the Radon Awareness and Disclosure Act of 1992. I want to commend the authors of this legislation, the gentleman from Massachusetts [Mr. MARKEY] and my good friend, the gentleman from New Jersey [Mr. RINALDO].

I also want to commend the chairman of the Transportation Subcommittee, Mr. SWIFT, and the chairman of the Health and Environment Subcommittee, Mr. WAXMAN, for their leadership on this issue.

Finally, I want to note the contributions of the gentleman from Pennsylvania, the ranking member of the Transportation Subcommittee, Mr. RITTER. He is perhaps more familiar with the issue of radon than any of us, and he has

made very worthwhile contributions to the development of this legislation.

Mr. Speaker, I urge my colleagues to support this bill. Thanks to the efforts of those Members I have just mentioned, it is a narrowly crafted bill that reauthorizes EPA's indoor radon program for 2 years. It also contains a provision that requires EPA to develop a strategy for identifying areas and buildings with exceptionally high radon levels. This is an important provision that will encourage EPA to focus its resources on the worst risks first.

EPA's Science Advisory Board has indicated that radon in homes can present a serious risk to public health. This bill will help to address those risks, beginning with the most serious risks first.

I urge my colleagues to support the bill.

Mr. RITTER. Mr. Speaker, I rise in support of H.R. 3258, the Radon Awareness Disclosure Act of 1992.

Mr. Speaker, this bill is a carefully crafted reauthorization of EPA's indoor radon program. It reauthorizes the program for 2 years, including funding for grants to State radon programs. It also requires EPA to expand its efforts to educate health officials on the health risks from radon, it establishes a President's Commission on Radon Awareness, and it establishes a mandatory program for certifying radon testing devices, as the administration has recommended.

I want to thank the authors of this legislation, Mr. MARKEY and Mr. RINALDO, and the chairmen of the subcommittees which considered the bill, Mr. WAXMAN and Mr. SWIFT, for their help in making this a focused reauthorization bill.

I would also like to take just a moment to discuss a provision that I authored and that I am pleased is included in the bill. This provision is intended to encourage EPA to focus some of its resources on the most serious risks from radon. Some recent reports have shown that there may be between 50,000 and 100,000 homes in the United States with radon levels above 20 picocuries per liter. Twenty picocuries per liter is the exposure limit that the Federal Government has set for mine workers. It seems to me that if EPA's radon program does anything, it should be focusing on these high-risk homes. Unfortunately, EPA's indoor radon program has not made finding these homes a top priority.

The new provision which I authored directs EPA to develop a strategy for identifying those areas and buildings in the United States that have exceptionally high levels of radon. To its credit, EPA has already started to work with other Federal agencies—like the U.S. Geological Survey and the Department of Energy—to develop maps and computer methodologies to identify homes with exceptionally high levels of radon. It is my expectation that these efforts would form the basis for the strategy which EPA is required to develop.

Mr. Speaker, I have always been a strong supporter of the idea of worst first, that is, that we should deal first with those hazards that present the greatest risk to public health. I should point out, however, that we are not radically changing the focus of EPA's radon program. We are building on existing EPA programs. At the same time, EPA will continue to implement its other authorized activities.

While I support this reauthorization of EPA's indoor radon program, I must add that I continue to have concerns with some of EPA's assumptions concerning the risks of exposure to low levels of radon. The risks projected using current data and methods are highly uncertain. Mitigation of low levels of radon may be an unnecessary use of scarce resources.

As EPA administers the Federal indoor radon program, it is important that it continue to work with other Federal agencies and experts to advance our understanding of the risks of exposure to radon in the home. EPA should, in consultation with national experts in radon, update its assessments of risks from radon, seek to reduce the uncertainty in risk estimations, and revise its indoor radon program strategy. This should be done in a timely fashion to reflect the most current scientific understanding of the effects of radon and for achieving the largest reduction of risk without imposing unnecessary financial burdens on property owners.

Again, I commend my colleagues for their work on this legislation and urge its adoption.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3258, as amended.

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

The title of the bill was amended so as to read:

A bill to improve the accuracy of radon testing products and services, to develop a strategy to identify and reduce exceptionally high indoor radon levels, to facilitate the identification, testing, and mitigation of residential dwellings, and to create a commission to provide increased public awareness of radon, and for other purposes.

A motion to reconsider was laid on the table.

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 792) to reauthorize the Indoor Radon Abatement Act of 1988 and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 792

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indoor Radon Abatement Reauthorization Act of 1992".

SEC. 2. NATIONAL GOALS.

Section 301 of the Toxic Substances Control Act (15 U.S.C. 2661) is amended—

(1) in the heading, by striking "NATIONAL GOAL" and inserting NATIONAL GOALS";

(2) by inserting "(a) RADON LEVELS.—" before the first sentence of the section; and

(3) by adding at the end the following new subsection:

"(b) TESTING.—It is the goal of the United States that all homes, schools, and Federal buildings be tested for radon.".

SEC. 3. DEFINITIONS.

Section 302 of the Toxic Substances Control Act (15 U.S.C. 2662) is amended by adding at the end the following new paragraphs:

"(5) The term 'residential dwelling' means—

"(A) a single-family dwelling or a one-family dwelling unit in a structure containing not more than four separate residential dwelling units, each such unit used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons; or

"(B) a single-family or one-family dwelling unit on the subground, ground, or first-floor-above-ground level of a multi-unit residential structure.

"(6) The term 'multi-unit residential structure' means a building containing more than four separate residential dwelling units, each such unit used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.

"(7) The term 'contract for the sale of residential real property' means any contract or agreement whereby one party agrees to purchase from another party any interest in real property improved by one or more residential dwelling units used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.

"(8) The term 'applicable mortgage loan' includes any loan (other than temporary financing such as a construction loan) that—

"(A) is secured by a first lien on residential real property (including individual units of condominiums and cooperatives); and

"(B) either—

"(i) is insured, guaranteed, made, or assisted by any agency of the Federal Government, including the Department of Housing and Urban Development, the Veterans Administration, and the Farmers Home Administration; or

"(ii) is intended to be sold by an originating mortgage institution to any federally chartered secondary mortgage market institution.

"(9) The term 'originating mortgage institution' means any lender that provides federally insured, guaranteed, made, or assisted mortgage loans, or sells mortgage loans to a federally chartered secondary mortgage market institution.

"(10) The term 'federally chartered secondary mortgage institution' means an institution chartered by Congress that buys mortgages from originating financial institutions and resells them to investors, including the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Association.

"(11) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.

"(12) The term 'business day' means any day other than a Saturday, a Sunday, a Federal holiday, a State holiday in the State in which the affected residential property is located, or a State holiday in the State or States in which the buyer or seller resides.

"(13) The term 'person' means an individual, trust, firm, joint stock company, cor-

poration (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or an interstate body.

"(14) The term "direct Federal financial assistance" means assistance in financing a residential dwelling provided by the Federal Housing Administration, Farmers Home Administration, and the Department of Veterans Affairs.

"(15) The term "Federal building" means any building that—

"(A) is used primarily as an office building, school, hospital, or residence,

"(B) owned, leased, or operated by any Federal agency, and

"(C) is occupied by the Library of Congress, is part of the White House, or is the residence of the Vice President, and

"(D) is included in the definition of 'Capitol Buildings' under section 16(a) of the Act entitled 'An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes', approved July 31, 1946 (40 U.S.C. 193m).".

SEC. 4. PRIORITY RADON AREAS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended—

(1) by redesignating sections 303 through 311 as sections 304 through 312, respectively; and

(2) by inserting after section 302 the following new section:

"SEC. 303. PRIORITY RADON AREAS.

"(a) DESIGNATION OF AREAS.—The Administrator shall, designate as expeditiously as possible but no later than January 1, 1992, areas as priority radon areas, and revise, as appropriate thereafter, the designations.

"(b) STANDARD FOR DESIGNATION.—The Administrator shall designate an area as a priority radon area in any case where the Administrator determines that there is a reasonable likelihood that the average indoor radon level in the area is likely to exceed the national average indoor radon level by more than a de minimis amount.

"(c) FACTORS.—In designating priority radon areas, the Administrator shall consider the most current available information at the time of such designation, including—

"(1) the national assessment of radon conducted pursuant to section 118(k) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note);

"(2) surveys of school buildings conducted pursuant to section 308;

"(3) surveys of Federal buildings conducted pursuant to section 310;

"(4) surveys of work places conducted pursuant to section 318; and

"(5) any other information, including other radon measurements and geological data, as the Administrator determines to be appropriate.".

SEC. 5. CITIZEN'S GUIDE.

(a) SCHEDULE.—Section 304(a) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking "June 1, 1989," and inserting "January 1, 1992,"; and

(2) by inserting ", in consultation with the Director of the Centers for Disease Control of the Department of Health and Human Services," after "Administrator" in the last sentence of the subsection.

(b) ACTION LEVELS.—Section 304(b)(1) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by inserting "(A)" after "ACTION LEVELS.—"; and

(2) by adding at the end the following new subparagraphs:

"(B) The citizen's guide shall state the national goals established in this title, and shall estimate the average national ambient outdoor radon level. The guide shall also indicate the health benefits of reducing indoor radon levels to ambient outdoor levels.

"(C) The citizen's guide shall establish a target action point indicating a level of indoor radon that is, in the judgment of the Administrator, as close to the national ambient outdoor radon level as can be achieved consistently in existing, single family homes through the application of readily available and generally affordable radon mitigation technologies and practices.".

(c) INFORMATION.—Section 304(b)(2) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subparagraph:

"(F) The location of priority radon areas and the likelihood of radon levels above the target action point within and outside of priority radon areas.".

SEC. 6. MODEL CONSTRUCTION STANDARDS.

(a) TECHNICAL AMENDMENTS.—(1) Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(A) by inserting "(a) STANDARDS.—" before the first sentence of the section;

(B) by inserting "and periodically update" after develop";

(C) by striking the second sentence of the section and inserting the following new subsection:

"(b) CONSULTATION.—In developing and updating standards and techniques pursuant to subsection (a), the Administrator shall consult with—

"(1) the Secretary of Housing and Urban Development;

"(2) organizations that are involved in establishing national building construction standards and techniques; and

"(3) national organizations that represent homebuilders and State and local housing agencies (including public housing agencies).";

(D) by inserting "(c) GEOGRAPHIC DIFFERENCES.—(1)" before the fourth sentence of the section;

(E) by striking the fifth sentence of the section; and

(F) by inserting "(d) IMPLEMENTATION.—" before the sixth sentence of the section.

(2) Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsection:

"(e) SCHEDULE.—The Administrator shall publish final radon control standards and techniques for residential dwellings and make such techniques available to the public and the building industry by not later than January 1, 1992, and for multiunit residential structures and schools by not later than January 1, 1994.".

(b) OBJECTIVES.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end of subsection (c) (as designated by subsection (a)(1) of this section) the following new paragraph:

"(2)(A) Model standards and techniques shall indicate a range of effective radon control measures, practices, and techniques, that apply to original construction of a wide variety of building types, locations, conditions, and circumstances, and shall indicate the general range of radon control achievable by such measures individually and in combination with other measures.

"(B) At a minimum, the Administrator shall establish minimum radon reduction measures, practices, and techniques for new construction for the purpose of determining compliance with this section. Such radon standards shall be designed to require the use of reasonably available and economically achievable techniques, and to achieve indoor radon levels in homes less than the target action point established pursuant to section 304(b)(1)(C) where possible by using these techniques.".

(c) FEDERALLY ASSISTED HOUSING.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act, and as amended by subsection (a)(2) of this section) is amended by adding at the end the following new subsection:

"(f) FEDERALLY ASSISTED HOUSING.—The appropriate Federal official shall require that any residential dwelling or multiunit residential structure constructed more than two years after the date of the establishment of new construction standards pursuant to this section or the date of enactment of this section, whichever is later, in an area designated by the Administrator as a priority radon area or more than two years after the designation of an area as a priority radon area, whichever is later, shall be constructed in accordance with the radon control standards established pursuant to subsection (c)(2)(B), before providing any direct Federal financial assistance.".

(d) DESIGN AWARDS AND CERTIFICATION.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act, and as amended by subsection (c) of this section) is amended by adding at the end the following new subsection:

"(g) DESIGN AWARDS.—(1) The Administrator shall establish a radon design awards program.

"(2) The radon design awards program shall provide for awards for the best residential design incorporating radon control or mitigation standards in categories of residential design to be determined by the Administrator.".

(e) RELATIONSHIP TO STATE AND LOCAL STANDARDS.—Section 305 of the Toxic Substances Control Act (as redesignated by section 4 of this Act, and as amended by subsection (d) of this section) is amended by adding at the end the following new subsection:

"(h) RELATIONSHIP TO STATE AND LOCAL STANDARDS.—The standards published pursuant to this section shall not preempt the use of any State or local building standard if the State or local standard is equally effective in reducing radon levels as the standards published pursuant to this section.".

SEC. 7. TECHNICAL ASSISTANCE.

(a) ACTIVITIES.—Section 306(a) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraphs:

"(9) Development of a model State program to disseminate radon information to State and local tenant organizations.

"(10) Assistance to State agencies and other organizations concerning the assessment and mitigation of radon in public water supplies.

"(11) Assistance to State agencies and other organizations to facilitate prompt adoption and effective enforcement of new construction standards for reducing radon levels developed pursuant to section 305.

"(12) Development of testing guidelines for multiunit residential structures and multistory buildings not later than six months after the date of enactment of this paragraph and development of mitigation guidelines not later than three years after the date of enactment of this paragraph.

"(13) Issuance of guidance to States on appropriate elements of State radon measurement and mitigation proficiency programs.".

(b) PROFICIENCY TESTING.—(1) Section 306(a)(2) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking "voluntary".

(2) Section 306(e) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(A) by redesignating paragraph (2) as paragraph (2)(A); and

(B) by adding after paragraph (2)(A), as so redesignated, the following new subparagraphs:

"(B)(i) Except as otherwise provided in clause (ii), for the purposes of this paragraph, the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) for the 3-year period preceding the date of the assessment, has an average annual gross revenue from radon measurement and mitigation activities in an amount that does not exceed $40,000,000.

"(ii) If, after consultation with the Small Business Administration, the Administrator determines that a modification of the definition of 'small business' under clause (i) is appropriate to characterize small businesses associated with radon measurement and mitigation, the Administrator shall, by regulation, modify the definition in such manner as the Administrator determines to be appropriate.

"(C) The Administrator shall consider reductions of such charges for small businesses pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

"(D) No charges may be imposed on State and local governments. In the case of a State which is administering a radon proficiency program pursuant to section 314(c), the State may impose charges consistent with charges which would have been imposed by the Administrator. Any amounts collected by a State as charges under this paragraph may be used as part of the non-Federal share of a grant awarded pursuant to section 307 of this title.".

SEC. 8. GRANT ASSISTANCE.

(a) APPLICATION.—Section 307(b) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraph:

"(6) A description of the State's efforts to develop a mandatory radon proficiency program consistent with sections 306(a)(2) and 314.".

(b) ELIGIBLE ACTIVITIES.—Section 307(c) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraphs:

"(11) Technical assistance to public water supply systems concerning mitigation of radon in public water supplies, and public education and information activities to assist homeowners in the assessment and mitigation of radon in private drinking water supplies.

"(12) Activities to adopt model new construction standards for reducing radon levels developed pursuant to section 305 to the State and assure the implementation of such standards in the State.

"(13) Technical and financial assistance to non-profit public interest groups to encourage radon testing and mitigation at local levels.

"(14) Targeting outreach and technical assistance activities to licensed child care facilities in priority radon areas.

"(15) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the target action point identified pursuant to section 304(b)(1)(C): *Provided*, That such payments are made in consideration of the financial need of the applicant.

"(16) Payment of costs of conducting radon tests required pursuant to section 308(d): *Provided*, That such payments shall be made only in the case of a local educational agency that received assistance payment pursuant to paragraph (15).

"(17) Educational programs for members of the housing industry concerning the model construction standards and techniques published pursuant to section 305.

"(18) Financial assistance to conduct surveys to improve the precision of priority radon areas.".

(c) PREFERENCE TO CERTAIN STATES.—Section 307(d) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking "1991" and inserting "1993"; and

(2) by inserting before the period ", or have adopted equally effective standards".

(d) FEDERAL SHARE.—Section 307(f) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking "in the third year" and inserting "in each succeeding year".

(e) ASSISTANCE TO LOCAL GOVERNMENTS.—Section 307(g) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking "and (6)" and inserting "(6), (11), (12), (14), (15), and (16),"; and

(2) by inserting "(1)" after "GOVERNMENTS.—"; and

(3) by adding at the end the following new paragraph:

"(2) Any remediation plans for reducing radon in school buildings implemented pursuant to this section shall be reviewed for consistency with EPA guidance by the school officials responsible for authorizing these types of structural changes.".

(f) INFORMATION.—Section 307(h) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new paragraph:

"(4) Any State receiving funds under this section shall investigate consumer complaints about radon services that violate the Environmental Protection Agency or State radon proficiency program. An appropriate official of the State shall advise the Administrator of any person who violates the requirements of section 314.".

(g) AUTHORIZATION.—Section 307(j) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking paragraph (5).

SEC. 9. RADON IN SCHOOLS.

Section 308 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsections:

"(c) GUIDELINES.—(1) Not later than one year after the date of enactment of this subsection, the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted in a manner consistent with any interim guidance published by the Administrator or by a State (in any case where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection).

"(d) REQUIREMENT FOR RADON TESTING.—(1) Not later than two years after the designation by the Administrator of an area as a priority radon area, each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c).

"(3) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of such results and shall send the results to the Administrator and the agency of the State that implements radon programs.

"(4) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an Environmental Protection Agency or equivalent State approved program, as determined by the Administrator, and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to sections 306(a)(2) and 314.".

SEC. 10. REGIONAL RADON TRAINING CENTERS.

Section 309(b) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new sentence: "The regional radon training centers are authorized to provide training to State and local building code officials, contractors, and others in the building community, on the model construction standards and techniques published pursuant to section 305.".

SEC. 11. FEDERAL BUILDINGS.

Section 310 of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by adding at the end the following new subsection:

"(g) RADON ASSESSMENT AND MITIGATION PLAN.—(1) Not later than January 1, 1994, the Administrator shall submit to Congress a plan describing activities to be undertaken by appropriate Federal agencies to assess and mitigate radon in Federal buildings.

"(2) The Administrator shall consult with the heads of affected Federal agencies in the development of the plan required pursuant to this subsection.

"(3) The plan required pursuant to this subsection shall, at a minimum—

"(A) include a list of each Federal building and an indication of the results of any radon tests for such buildings conducted to date;

"(B) specify those Federal buildings for which assessment and mitigation will be undertaken on an expedited basis based on consideration of—

"(i) the radon levels in the buildings;

"(ii) the number of people exposed to high radon levels; and

"(iii) the susceptibility of the building to mitigation.

"(C) specify the schedule for mitigation in each building in which radon levels exceed

the target action level specified in section 303(b)(1)(C); and

"(D) specify the Federal agency responsible for the building, the estimated costs of mitigation, and the source of funds for assessment and mitigation actions.

"(4) At a minimum, each Federal agency that is responsible for Federal buildings shall assure that—

"(A) all schools and residences are assessed to determine radon levels by not later than January 1, 1996;

"(B) all other Federal buildings are assessed to determine radon levels by not later than January 1, 1998; and

"(C) in the case of a Federal building with radon levels above the target action point established by the Administrator pursuant to section 304(b)(1)(C), measures designed to achieve radon levels at or below the target action point are implemented by not later than two years after the applicable deadline for assessment specified in this paragraph.

"(5) In implementing radon assessment and mitigation activities, Federal agencies shall employ as contractors private firms certified by the Administrator as proficient pursuant to section 306(a)(2).

"(6) Not later than two years after the submittal of the plan required pursuant to this subsection, the Administrator shall submit to Congress a report on actions taken to implement the plan.".

SEC. 12. RADON INFORMATION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 4 of this Act) is further amended by adding at the end the following new section:

"SEC. 313. RADON-RELATED INFORMATION.

"(a) INFORMATION DOCUMENT.—(1) Not later than 180 days following the date of enactment of this section, the Administrator, in consultation with the Secretary of Housing and Urban Development, national organizations that represent State and local housing agencies (including public housing agencies), real estate groups and real estate financial institutions, citizen groups, and other groups that the Administrator determines to be appropriate, shall develop a written document containing radon-related information.

"(2) The document shall include, at a minimum—

"(A) information indicating the health risk associated with different levels of radon exposure consistent with the health information in the citizen's guide;

"(B) information regarding the advisability of undertaking measures to mitigate dangerous levels of radon;

"(C) information regarding appropriate Federal and State agencies that can provide further information on the health risk from radon, and a list of firms or other entities approved by the Environmental Protection Agency for purposes of radon detection and mitigation; and

"(D) recommended Environmental Protection Agency radon testing procedures that will provide quality and reliable measurements in conjunction with a real estate transaction.

"(3) A copy of such document shall be provided by every originating mortgage institution to each person from whom it receives or for whom it prepares a written application for an applicable mortgage loan. Such document shall be made available not later than five business days after such application is received or prepared.

"(4) No federally chartered secondary mortgage institution may purchase any mortgage loan originating twelve or more months after the date of enactment of this section unless such secondary mortgage institution requires, by contract or otherwise, that the originating mortgage institution shall comply with the radon information distribution requirements imposed under this section, in originating mortgages to be purchased by such secondary mortgage market institution.

"(5) For purposes of this section, a document may be printed and distributed by each originating mortgage institution if the form and content of the document meet the requirements of this section and the document is approved by the Administrator.

"(b) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the sale of residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with an applicable mortgage loan.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall annul, alter, affect, or exempt any person subject to this section from complying with the laws of any State with respect to the provision of radon-related information, except to the extent that the Administrator determines that any such law is inconsistent with this section, and then only to the extent of the inconsistency.".

SEC. 13. MANDATORY RADON PROFICIENCY PROGRAM.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 12 of this Act) is further amended by adding at the end the following new section:

"SEC. 314. MANDATORY RADON PROFICIENCY PROGRAM.

"(a) MANDATORY PARTICIPATION.—Effective two years after the date of the enactment of this section, no person shall offer radon measurement devices or radon measurement or mitigation services to the public unless such person has successfully completed the Environmental Protection Agency's radon proficiency program, or appropriate portions thereof.

"(b) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to apply to governmental units or nonprofit organizations that provide a radon service for their own use and do not provide that service for commercial purposes.

"(c) DELEGATION TO STATES.—(1) The Administrator shall administer the mandatory proficiency program in a manner consistent with the Guidance to States on Radon Certification of the Enviromental Protection Agency.

"(2) The Administrator is authorized to enter into any agreement or other arrangement with any State for the purpose of delegating its radon proficiency program, including enforcement provisions, or any other part thereof, to such State, provided that a State program is consistent with the Federal program.

"(d) PROHIBITED ACTS.—It shall be unlawful for any person to—

"(1) fail or refuse to comply with this section, or any rule or regulation promulgated or order issued pursuant to this section; or

"(2) fail or refuse to—

"(A) establish or maintain records as required by the Administrator or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c);

"(B) submit reports, notices, or other information, as required by the Administrator or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c);

"(C) permit entry or inspection by the Administrator, or by a State where the Administrator has entered into an agreement or other arrangement under subsection (c); or

"(D) permit access to or copying of records by a State where the Administrator has entered into an agreement or other arrangement under subsection (c).".

SEC. 14. MEDICAL COMMUNITY OUTREACH.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 13 of this Act) is further amended by adding at the end the following new section:

"SEC. 315. MEDICAL COMMUNITY OUTREACH.

"(a) IN GENERAL.—The Administrator, in cooperation with the Secretary of Health and Human Services, shall develop and implement an outreach program to provide information about radon to the medical community.

"(b) INFORMATION.—(1) The Administrator, in consultation with the Secretary of Health and Human Services, the Surgeon General, and the Director of the Centers for Disease Control shall develop informational material concerning radon tailored to doctors in general practice and in specialties related to lung cancer. Such information shall, at a minimum—

"(A) explain the health threats posed by exposure to radon and include a summary of scientific evidence that demonstrates the human health effects of exposure to radon;

"(B) explain the association of radon with smoking and other causes of lung cancer;

"(C) identify appropriate steps to take to determine exposure to radon in the home; and

"(D) identify sources of additional information.

"(2) Not later than one year after the date of enactment of this section, the Administrator shall transmit the information developed pursuant to this section to—

"(A) doctors in the United States in general practice;

"(B) doctors in specialties related to lung cancer;

"(C) all doctors employed by the Federal Government;

"(D) all hospital administrators; and

"(E) other physicians and officials determined by the Administrator to be appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Health and Human Services, shall report to Congress concerning the implementation of this section and recommendations for measures to improve radon information dissemination to the medical community.".

SEC. 15. FEDERAL HOUSING.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 14 of this Act) is further amended by adding at the end the following new section:

"SEC. 316. FEDERALLY OWNED AND ASSISTED HOMES, SCHOOLS, AND BUILDINGS.

"(a) FEDERALLY FUNDED CONSTRUCTION.—Not later than six months after the publication of priority radon areas required by section 303, or the publication of model construction standards required by section 305, whichever is later, the head of each Federal agency shall adopt such procedures as may be necessary to assure that any new Federal building or that any school constructed with Federal financial assistance, in a priority radon area, shall conform to the model construction standards required by section 305.

"(b) FEDERALLY ASSISTED HOUSING.—The Secretary of Housing and Urban Development, in cooperation with the Administrator, shall, not later than one year after

the date of enactment of this Act, disseminate in priority radon areas information on the health threats posed by radon, proper methods of testing for radon, and techniques for mitigating elevated radon levels to public housing agencies and Indian housing authorities, as defined in paragraphs (6) and (11), respectively, of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), and to owners and managers of other housing assisted under other provisions of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) and the National Housing Act (12 U.S.C. 1701 et seq.).

"(c) RESEARCH.—The Secretary of Housing and Urban Development shall undertake a program of radon research, consisting of research on—

"(1) radon distribution and mitigation within multiunit residential structures in conjunction with the Administrator;

"(2) landlord liability;

"(3) predicting radon hazards in new multiunit residential structures on particular lands; and

"(4) such other research as both the Secretary of Housing and Urban Development and the Administrator consider appropriate.".

SEC. 16. NATIONAL RADON EDUCATIONAL EFFORTS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 15 of this Act) is further amended by adding at the end the following new section:

"SEC. 317. NATIONAL RADON EDUCATIONAL CAMPAIGN.

"The Administrator shall establish a national education campaign and is authorized to enter into cooperative agreements to increase public awareness about radon health risks and motivate public action to reduce radon levels, including the use of funds for the purchase and production of public educational materials.".

SEC. 17. RADON IN WORK PLACES.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 16 of this Act) is further amended by adding at the end the following new section:

"SEC. 318. RADON IN WORK PLACES.

"(a) STUDY OF RADON IN WORK PLACES.—

"(1) AUTHORITY.—The Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the Administrator, shall conduct a study for the purpose of determining the extent of radon contamination in the Nation's work places.

"(2) SURVEY.—In conducting such study, the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services and the Administrator shall be jointly responsible for designing a survey that, when completed, allows Congress to characterize the extent of radon contamination in work places. The survey shall include testing from a representative sample of work places in each priority radon area and shall include additional testing, to the extent resources are available for such testing.

"(3) REPORT.—Not later than two years after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health of the Department of Health and Human Services, in consultation with the Administrator, shall submit a report setting forth the results of the study conducted pursuant to this section.

"(b) AUTHORIZATION.—For the purpose of carrying out this section there are authorized to be appropriated such sums, not to exceed $2,000,000, as may be necessary.".

SEC. 18. PREEMPTION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 17 of this Act) is further amended by adding at the end the following new section:

"SEC. 319. PREEMPTION.

"(a) CONSTRUCTION OF PROVISIONS AS NOT PREEMPTING OTHER LAWS.—Nothing in this title shall be construed, interpreted, or applied to preempt, displace, or supplant any other Federal or State law, whether statutory or common.

"(b) AWARD OF COSTS AND DAMAGE AWARDS.—Nothing in this title shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

"(c) CONSTRUCTION OF PROVISIONS AS NOT PROHIBITING MORE STRINGENT STATE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting a State, with respect to radon within such State, from establishing any liability or more stringent requirement that is equal to or more stringent than those included in this title.

"(d) CREATION OF CAUSE OF ACTION.—Nothing in this title creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(e) EFFECT OF PROVISIONS IN CIVIL ACTIONS FOR DAMAGES.—It is not the intent of Congress that this subsection, or rules, regulations, or orders issued pursuant to this subsection, be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this title or rules, regulations, or orders issued pursuant to this title.".

SEC. 19. ENFORCEMENT.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 18 of this Act) is further amended by adding at the end the following new section:

"SEC. 320. ENFORCEMENT.

"(a) CIVIL PENALTIES.—(1) Any person violating section 313 or 314 or who provides false information concerning compliance with section 305(f) to an appropriate Federal official, shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

"(2)(A) A civil penalty under this section shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order and provide such person an opportunity to request, not later than 15 days after the date the notice is received by such person, a hearing on the order.

"(B) In determining the amount of a civil penalty, the Administrator may take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(C) The Administrator may compromise, modify, remit, with or without conditions, any civil penalty that may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the firm charged.

"(3) Any person who requested a hearing under this section respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(4) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

"(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(b) COMPLIANCE ORDERS.—(1) If the Administrator finds on the basis of information made available, that any person, firm, or organization is in violation of this Act, the Administrator shall proceed under the authority under subsection (2) of this section, or notify the person, firm, or organization in which the violation occurred. If, beyond the thirtieth day after the notification of the Administrator, the State has not commenced appropriate enforcement action, the Administrator may issue an order requiring compliance or such other relief as the Administrator may find appropriate, or bring civil action in accordance with paragraph (4) of this subsection.

"(2) If the Administrator finds, on the basis of information made available, that any person, firm, or organization is in violation of requirements of the Act, the Administrator may issue an order requiring such person, firm, or organization to comply with such requirement or such other relief as the Administrator may find appropriate, or shall bring civil action in accordance with paragraph (4) of this subsection.

"(3) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days. Such orders shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(4) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, of any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this subsection may be brought in the district court of the United States in the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain the violation and require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.".

SEC. 20. CITIZEN SUITS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) (as amended by section 19 of this Act) is further amended by adding at the end the following new section:

"SEC. 321. CITIZEN SUITS.

"(a) IN GENERAL.—Except as provided in subsection (b), any person may commence a civil action—

"(1) against the United States in any case where the United States is alleged to be in violation of section 305(f), 310, or 316, or any rule promulgated thereunder, to restrain such violation;

"(2) against any person who is alleged to be in violation of section 308, 313, or 314, or any rule promulgated thereunder, to restrain such violation; or

"(3) against the Administrator to compel the Administrator to perform any act or duty under this Act that is not discretionary.

Any civil action under paragraph (1) shall be brought in the United States district court for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts of the United States shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection, process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas for witnesses may be served in any judicial district.

"(b) LIMITATION.—No civil action may be commenced—

"(1) under subsection (a)(1) to restrain a violation of this Act, or rule or order under this Act—

"(A) before the expiration of sixty days after the plaintiff has given notice of such violation—

"(i) to the Administrator; and

"(ii) to the person who is alleged to have committed such violation; or

"(B) if the Administrator has commenced and is diligently prosecuting a proceeding to require compliance with this Act or with such rule or order, or if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or with such rule or order, but if such proceeding or civil action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such proceeding or action; or

"(2) under subsection (a)(2) before the expiration of sixty days after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty that is the basis for such action.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

"(c) IN GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

"(3) Nothing in this section shall restrict any right that any person (or class of persons) may have under any statute or common law to seek enforcement of this Act, or any rule or order under this Act, or to seek any other relief.

"(d) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions that is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

"(1) a district that is selected by such defendant and in which one of such actions is pending;

"(2) a district that is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending; or

"(3) a district that is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.".

SEC. 21. AUTHORIZATIONS OF APPROPRIATIONS.

(a) TECHNICAL ASSISTANCE.—Section 306(f) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by striking "and 1991." and inserting "1991, 1992, 1993, 1994, and 1995.".

(b) GRANT ASSISTANCE.—Section 307(j)(1) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by inserting before the period ", and $15,000,000 for each of fiscal years 1992, 1993, 1994, and 1995".

(c) SCHOOL REMEDIATION.—Section 307(j) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended—

(1) by striking paragraph (5); and

(2) by adding at the end the following new paragraphs:

"(5) Of funds appropriated pursuant to this subsection for fiscal years 1992, 1993, 1994, and 1995, not more than one-third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (15) and (16) of subsection (c).

"(6) Of funds appropriated pursuant to this subsection for fiscal years 1992, 1993, 1994, and 1995, the Administrator may reserve an amount up to 2 percent or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for the implementation of measures to reduce radon levels: *Provided*, That any such local educational agency is prohibited by State law from receiving grant assistance from the State: *Provided further*, That the local educational agency provides not less than 50 percent of the cost of implementing such measures from non-Federal sources.".

(d) REGIONAL TRAINING CENTERS.—Section 309(f) of the Toxic Substances Control Act (as redesignated by section 4 of this Act) is amended by inserting before the period ", and $1,500,000 for each of fiscal years 1992, 1993, 1994, and 1995".

SEC. 22. TECHNICAL AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. 2601 note) is amended—

(1) by redesignating the items relating to sections 303 through 311 as 304 through 312, respectively;

(2) by inserting after the item relating to section 302 the following new item:

"Sec. 303. Priority radon areas.";

and

(3) by adding at the end the following new items:

"Sec. 313. Radon-related information.
"Sec. 314. Mandatory radon proficiency program.
"Sec. 315. Medical community outreach.
"Sec. 316. Federally owned and assisted homes, schools, and buildings.
"Sec. 317. National radon educational campaign.
"Sec. 318. Radon in work places.
"Sec. 319. Preemption.
"Sec. 320. Enforcement.
"Sec. 321. Citizens suits.
"Sec. 322. Periodic Reassessment of Health Risks.".

(b) RADON MITIGATION DEMONSTRATION PROGRAM.—Section 118(k)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is amended—

(1) in subparagraph (A)—

(A) by inserting "develop and" after "to"; and

(B) by adding at the end of the subparagraph the following new sentence: "The demonstration program shall include the development and evaluation of innovative low-cost techniques to reduce radon concentrations in existing structures, including structures with low to moderate radon levels, and in new structures, and the development and demonstration of radon mitigation technology for multistory buildings.".

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 23. REPORT TO CONGRESS ON PROMOTING RADON TESTING.

(a) EVALUATION.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs, shall evaluate existing efforts to promote radon testing in the Nation's homes and ways to increase radon testing.

(b) REPORT.—(1) The Administer shall report to Congress by October 1, 1993, on the effectiveness of alternative strategies to promote radon testing. The strategies shall include—

(A) grants to support the development of radon testing strategies by States;

(B) financial incentives to homeowners;

(C) testing and disclosure of radon levels during real estate marketing;

(D) public education programs;

(E) distributing radon information during real estate marketing; and

(F) distributing radon information with utility bills.

(2) In preparing the report, the Administrator shall consult with concerned parties including public interest groups, health officials, radon testing industries, realtors, home builders, utilities and the States.

SEC. 24. PERIODIC REASSESSMENT OF HEALTH RISKS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 322. PERIODIC REASSESSMENT OF HEALTH RISKS.

The Administrator, in consultation with the heads of the National Academy of

Sciences and the Centers for Disease Control, shall conduct a program to reassess, on a periodic basis, the human health risks associated with radon exposure.".

SEC. 25. RADIONUCLIDES, PRIMARY DRINKING WATER REGULATIONS.

Prior to promulgating any national primary drinking water regulation for radionuclides under the Safe Drinking Water Act, the Administrator of the Environmental Protection Agency shall conduct a multimedia risk assessment of radon considering: (a) the relative risk of adverse human health effects associated with various pathways of exposure to radon; (b) the relative costs of controlling or mitigating exposure to radon from each pathway; and (c) the relative costs for radon control or mitigation experienced by households, communities and other entities including the costs experienced by small communities as the result of such regulation. Such an evaluation shall consider the risks posed by the treatment or disposal of any wastes produced by water treatment. Upon completion of this risk assessment, the Administrator shall report his findings to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce. Nothing in this section shall modify or be the basis for an extension of any statutory or court-ordered deadline for the promulgation of such regulation.

MOTION OFFERED BY MR. SWIFT

Mr. SWIFT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SWIFT moves to strike out all after the enacting clause of the Senate bill, S. 792, and to insert in lieu thereof the text of H.R. 3258, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read:

A bill to improve the accuracy of radon testing products and services, to develop a strategy to identify and reduce exceptionally high indoor radon levels, to facilitate the identification, testing, and mitigation of residential dwellings, and to create a commission to provide increased public awareness of radon, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3258) was laid on the table.

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APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to clause 6(f) of rule X, the Chair, without objection, makes the following appointments to fill vacancies occasioned by the death of Representative Jones of North Carolina on the committee of conference on H.R. 776.

As an additional conferee from the Committee on Merchant Marine and Fisheries for consideration of title XXIV and section 1607 of the House bill, and title XII of the Senate amendment, and modifications committed to conference: Mr. CARPER.

As an additional conferee from the Committee on Merchant Marine and Fisheries for consideration of sections 205, 1602, and 1701(b) of the House bill, and title XXI and sections 5204, 5302, 5304, and 11103 of the Senate amendment, and modifications committed to conference: Mr. HUGHES.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

NATIVE HAWAIIAN HEALTH CARE AMENDMENTS OF 1992

Mr. WYDEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2681) relating to native Hawaiian health care, and for other purposes, as amended.

The Clerk read as follows:

S. 2681

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Health Care Amendments of 1992".

SEC. 2. AMENDMENTS TO NATIVE HAWAIIAN HEALTH CARE ACT OF 1988.

Whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Native Hawaiian Health Care Improvement Act (as amended by section 3(a) of this Act) (42 U.S.C. 11701 et seq.).

SEC. 3. SHORT TITLE; FINDINGS; POLICY; INTENT OF CONGRESS.

(a) SHORT TITLE.—Section 1 of the Act (42 U.S.C. 11701 note) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Native Hawaiian Health Care Improvement Act'.".

(b) FINDINGS; POLICY; INTENT OF CONGRESS; REPORT.—Section 2 of the Act (42 U.S.C. 11701) is amended—

(1) by striking "The Congress finds that—" and inserting the following:

"(a) FINDINGS.—The Congress finds that—";

(2) by adding at the end the following new subsections:

"(b) DECLARATION OF POLICY.—The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

"(1) to raise the health status of Native Hawaiians to the highest possible health level; and

"(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

"(c) INTENT OF CONGRESS.—It is the intent of the Congress that the Nation meet the following health objectives with respect to Native Hawaiians by the year 2000:

"(1) Reduce coronary heart disease deaths to no more than 100 per 100,000.

"(2) Reduce stroke deaths to no more than 20 per 100,000.

"(3) Increase control of high blood pressure to at least 50 percent of people with high blood pressure.

"(4) Reduce blood cholesterol to an average of no more than 200 mg/dl.

"(5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.

"(6) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(7) Increase Pap tests every 1 to 3 years to at least 85 percent of women age 18 and older.

"(8) Increase fecal occult blood testing every 1 to 2 years to at least 50 percent of people age 50 and older.

"(9) Reduce diabetes-related deaths to no more than 34 per 100,000.

"(10) Reduce the most severe complications of diabetes as follows:

"(A) end-stage renal disease to no more than 1.4 in 1,000;

"(B) blindness to no more than 1.4 in 1,000;

"(C) lower extremity amputation to no more than 4.9 in 1,000;

"(D) perinatal mortality to no more than 2 percent; and

"(E) major congenital malformations to no more than 4 percent.

"(11) Reduce infant mortality to no more than 7 deaths per 1,000 live births.

"(12) Reduce low birth weight to no more than 5 percent of live births.

"(13) Increase first trimester prenatal care to at least 90 percent of live births.

"(14) Reduce teenage pregnancies to no more than 50 per 1,000 girls age 17 and younger.

"(15) Reduce unintended pregnancies to no more than 30 percent of pregnancies.

"(16) Increase to at least 60 percent the proportion of primary care providers who provide age-appropriate preconception care and counseling.

"(17) Increase years of healthy life to at least 65 years.

"(18) Eliminate financial barriers to clinical preventive services.

"(19) Increase childhood immunization levels to at least 90 percent of 2-year-olds.

"(20) Reduce the prevalence of dental caries to no more than 35 percent of children by age 8.

"(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children age 6 through 8 and no more than 15 percent among adolescents age 15.

"(22) Reduce edentulism to no more than 20 percent in people age 65 and older.

"(23) Increase moderate daily physical activity to at least 30 percent of the population.

"(24) Reduce sedentary lifestyles to no more than 15 percent of the population.

"(25) Reduce overweight to a prevalence of no more than 20 percent of the population.

"(26) Reduce dietary fat intake to an average of 30 percent of calories or less.

"(27) Increase to at least 75 percent the proportion of primary care providers who provide nutrition assessment and counseling or referral to qualified nutritionists or dieticians.

"(28) Reduce cigarette smoking prevalence to no more than 15 percent of adults.

"(29) Reduce initiation of smoking to no more than 15 percent by age 20.

"(30) Reduce alcohol-related motor vehicle crash deaths to no more than 8.5 per 100,000 adjusted for age.

"(31) Reduce alcohol use by school children age 12 to 17 to less than 13 percent.

"(32) Reduce marijuana use by youth age 18 to 25 to less than 8 percent.

"(33) Reduce cocaine use by youth age 18 to 25 to less than 3 percent.

"(34) Confine HIV infection to no more than 800 per 100,000.

"(35) Reduce gonorrhea infections to no more than 225 per 100,000.

"(36) Reduce syphilis infections to no more that 10 per 100,000.

"(37) Reduce significant hearing impairment to a prevalance of no more than 82 per 1,000.

"(38) Reduce acute middle ear infections among children age 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(39) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals age 25 and younger to 0;

"(B) Tetanus among individuals age 25 and younger to 0;

"(C) Polio (wild-type virus) to 0;

"(D) Measles to 0;

"(E) Rubella to 0;

"(F) Congenital Rubella Syndrome to 0;

"(G) Mumps to 500; and

"(H) Pertussis to 1,000; and

"(40) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(d) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 9, a report on the progress made toward meeting each of the objectives described in subsection (c)."; and

(3) by amending the section heading to read as follows:

"SEC. 2. FINDINGS; DECLARATION OF POLICY; INTENT OF CONGRESS.".

SEC. 4. HEALTH CARE MASTER PLAN.

The first sentence of section 3(a) of the Act (42 U.S.C. 11702(a)) is amended by striking "developing" and inserting "coordinating, implementing, and updating".

SEC. 5. NATIVE HAWAIIAN HEALTH CARE SYSTEMS.

Section 4 of the Act (42 U.S.C. 11703) is amended—

(1) in subsection (a), by striking "health centers" each place it appears and inserting "health care systems";

(2) in subsection (a)(2), by striking "each of";

(3) by amending subsection (b) to read as follows:

"(b) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is a Native Hawaiian health care system.";

(4) in subsection (c)(2)(C), by striking "section 8" and inserting "section 10";

(5) by amending subsection (d) to read as follows:

"(d) LIMITATION ON NUMBER OF ENTITIES.—During a fiscal year, the Secretary under this Act may make a grant to, or hold a contract with, not more than 5 Native Hawaiian health care systems."; and

(6) by amending the section heading to read as follows:

"SEC. 4. NATIVE HAWAIIAN HEALTH CARE SYSTEMS.".

SEC. 6. FUNCTIONS OF PAPA OLA LOKAHI; ADMINISTRATIVE GRANT.

Section 5 of the Act (42 U.S.C. 11704) is amended to read as follows:

"SEC. 5. FUNCTIONS OF, AND GRANTS TO, PAPA OLA LOKAHI.

"(a) FUNCTIONS.—Papa Ola Lokahi shall—

"(1) coordinate, implement, and update, as appropriate, the comprehensive health care master plan developed pursuant to section 3;

"(2) to the maximum extent possible, coordinate and assist the health care programs and services provided to Native Hawaiians;

"(3) provide for the training of the persons described in section 4(c)(1)(B);

"(4) develop an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out this Act;

"(5) serve as a clearinghouse for—

"(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

"(B) the identification of and research into diseases affecting Native Hawaiians;

"(C) the availability of Native Hawaiian project funds, research projects, and publications;

"(D) the timely dissemination of information relating to Native Hawaiian health care systems;

"(6) perform the recognition and certification functions specified in sections 10(6)(F) and 10(6)(G); and

"(7) provide technical support and coordination of training and technical assistance to Native Hawaiian health care systems.

"(b) SPECIAL PROJECT FUNDS.—Papa Ola Lokahi may receive project funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.

"(c) GRANTS.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

"(1) carrying out the functions described in subsection (a); and

"(2) administering any special project funds received under the authority of subsection (b).

"(d) RELATIONSHIPS WITH OTHER AGENCIES.—Papa Ola Lokahi may enter into agreements or memoranda of understanding with relevant agencies or organizations that are capable of providing resources or services to Native Hawaiian health care systems.".

SEC. 7. ADMINISTRATION OF GRANTS AND CONTRACTS.

Section 6 of the Act (42 U.S.C. 11705) is amended—

(1) in subsection (d)(4), by striking "section" and inserting "Act"; and

(2) in subsection (e), by striking "section 5" and inserting "section 5(c)".

SEC. 8. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS; REPORTS.

(a) IN GENERAL.—The Act is amended—

(1) by repealing section 10;

(2) by redesignating sections 8, 9, 11, and 12 as sections 10, 11, 12, and 13, respectively; and

(3) by inserting after section 7 the following new sections:

"SEC. 8. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

"(a) ELIGIBILITY.—The Secretary is authorized to make scholarship grants to students who—

"(1) meet the requirements of section 338A(b) of the Public Health Service Act (42 U.S.C. 2541(b)); and

"(2) are Native Hawaiians.

"(b) TERMS AND CONDITIONS.—(1) Scholarship grants provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship grants provided under section 338A of the Public Health Service Act (42 U.S.C. 2541), provided that—

"(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

"(B) in selecting scholarship recipients, the Secretary shall give priority to individuals included on a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate;

"(C) the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in—

"(i) any one of the five Native Hawaiian health care systems which, during the fiscal year in which the obligated service requirement is assigned, has received a grant or entered into a contract pursuant to section 4; or

"(ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii.

"(2) The Secretary shall enter into a cooperative agreement with the Kamehameha Schools/Bishop Estate under which such organization shall provide recruitment, retention, counseling, and other support services intended to improve the operation of the scholarship program established under this section.

"(3) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"SEC. 9. REPORT.

"The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress the report required pursuant to section 2(d).".

(b) REPEAL OF PUBLIC HEALTH SERVICE ACT PROVISION.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by repealing section 338K and redesignating section 338L as section 338K. Such repeal shall not be construed to terminate contracts in effect under such section on the date of the enactment of this Act. Any such contracts shall continue according to the terms and conditions of such contracts.

SEC. 9. DEFINITIONS.

Section 10 of the Act (as redesignated by section 8(a)(2) of this Act) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records;

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification; or

"(iii) birth records of the State of Hawaii.";

(2) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively;

(3) by inserting after paragraph (5) the following new paragraph:

"(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term 'Native Hawaiian health care system' means an entity—

"(A) which is organized under the laws of the State of Hawaii;

"(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable;

"(C) which is a public or nonprofit private entity;

"(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services;

"(E) which may be composed of as many Native Hawaiian health centers as necessary

to meet the health care needs of Native Hawaiians residing on the island or islands served by such entity;

"(F) which is recognized by Papa Ola Lokahi for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians under this Act; and

"(G) which is certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements of a contract entered into, or a grant received, under section 4."; and

(4) by amending paragraph (7) (as redesignated by paragraph (2) of this section) to read as follows:

"(7) PAPA OLA LOKAHI.—(A) Subject to subparagraph (B), the term 'Papa Ola Lokahi' means an organization composed of—

"(i) E Ola Mau;

"(ii) the Office of Hawaiian Affairs of the State of Hawaii;

"(iii) Alu Like Inc.;

"(iv) the University of Hawaii;

"(v) the Office of Hawaiian Health of the Hawaii State Department of Health;

"(vi) Ho'ola Lahui Hawaii, or a health care system serving the islands of Kaua'i and Ni'ihau;

"(vii) Ke Ola Mamo, or a health care system serving the island of O'ahu;

"(viii) Na Pu'uwai or a health care system serving the islands of Moloka'i and Lana'i;

"(ix) Hui No Ke Ola Pono, or a health care system serving the island of Maui;

"(x) Hui Malama Ola Ha'Oiwi or a health care system serving the island of Hawaii; and

"(xi) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians, and upon satisfactory development of a mission statement in relation to this Act, including clearly defined goals and objectives, a 5-year action plan outlining the contributions that each organization will make in carrying out the policy of this Act, and an estimated budget.

"(B) Such term does not include any organization identified in subparagraph (A) if the Secretary determines that such organization does not have a mission statement with clearly defined goals and objectives for the contributions the organization will make to Native Hawaiian health care systems and an action plan for carrying out such goals and objectives.".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Act (as amended by section 8(a)(2) of this Act) is amended by adding at the end the following new section:

"SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000 such sums as may be necessary to carry out the purposes of this Act.".

(b) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 3, by striking subsection (b) and by striking "(a) DEVELOPMENT.—"; and

(2) by striking section 4(h).

SEC. 11. PROHIBITION AGAINST EXCLUSION FROM PARTICIPATION.

The Act (as amended by section 10 of this Act) is amended by adding at the end the following new section:

"SEC. 15. PROHIBITION AGAINST EXCLUSION FROM PARTICIPATION.

"Notwithstanding any other provision of this Act, no person shall, on the basis of race, color, or national origin, be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance under this Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon [Mr. WYDEN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, this bill would revise and extend the Native Hawaiian Health Care Act of 1988, which expires this year, through fiscal year 2000. The bill identifies 40 health status objectives for native Hawaiians, and directs the Secretary of Health and Human Services to report annually on the progress being made to achieving them. These objectives are drawn from Healthy People 2000, issued by the Secretary in 1991. The bill would also authorize the establishment and operation of up to five native Hawaiian health care systems to improve the health status of native Hawaiians through the delivery of preventive and primary care services.

The bill before you today is essentially the text of H.R. 5346, which was reported by the Committee on Energy and Commerce on August 12, with a few minor amendments to accommodate concerns of the Senate. The bill also contains language to respond to concerns of the Justice Department that prohibits grantees from discriminating on the basis of race, color, or national origin. My understanding is that the bill as so amended is acceptable to the chairman of the Senate committee of jurisdiction, Senator INOUYE, and that he will recommend that this bill be sent on to the President without further amendment.

On behalf of Chairman WAXMAN, who is observing the Jewish New Year, I want to thank Representatives ABERCROMBIE and MINK for their commitment to this legislation and the people whose health status it is designed to improve. I also want to thank Chairman DINGELL and his staff for their assistance in facilitating committee and House consideration of this bill.

According to the Congressional Budget Office, this bill has no pay-go effects. CBO estimates that the discretionary spending authorized by the bill totals $58 million over the next 5 years. This is a very modest amount to invest in improving the health status of the native Hawaiian population.

Some argue that this program is unnecessary because existing programs, like the Community Health Center and National Health Service Corps Programs, are sufficient. That they are not sufficient is made clear by the demonstrably inferior health status of native Hawaiians. According to the Secretary of HHS, the breast cancer rate among native Hawaiian women is 30 percent higher than that among other women—and, as we all know, the rate among other women is much too high.

I believe it makes sense to try a culturally competent approach to the delivery of primary and preventive health services to this population. That is what this bill would authorize, and I urge its adoption.

GENERAL LEAVE

Mr. WYDEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2681, the Senate bill presently under consideration.

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

There was no objection.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume, and I rise in opposition to this bill.

Mr. Speaker, this is an example of how the growth of domestic discretionary spending expands, expands to create the impending disaster that has been described by speaker after speaker on the floor of this House over the last few years, that if we do not change the course we are proceeding, before the end of this decade it is going to take all of the income of the Federal Government to pay the interest on the debt.

Now, this bill is a modest addition, but when you look at each of these programs in isolation, as we are today, you can say this makes some sense; but when you put them all together we have got economic disaster staring us in the face.

Now, this bill is a modest $3 million, approximately; it is a reauthorization of a program started a couple of years ago. But it is a duplication of an effort that is totally unnecessary.

Now, I love Hawaii, I think Hawaii is a beautiful place, I love the Hawaiian people, they have a quality that even surpasses the generosity and warmth of the people of the southern part of our country, if that is possible. They are a classic addition to the culture of America.

Anybody in Hawaii has the capability of having health care if they need it, if they cannot afford it, under the Community Rural and Migrant Health Center Program, which is a part of the Federal health care program of this country, that has facilities in the State of Hawaii, to take care of the people who have need in the area of health care.

So what are we doing? This bill is nothing more than plain pork, it has to be described that way. It is here because reasons come into existence for the production of pork as a part of the

congressional effort. I do not want to speak disparagingly about our distinguished Representatives from the great State of Hawaii, because I have nothing but the highest esteem for them. But you can only describe this effort as pork, plain and simple.

We do not need this native Hawaiian Health Improvement Act. I will say again: The people who are poor, who need health care in the State of Hawaii, can get all of the health care they need under the Community Rural and Migrant Health Center Programs. We do not need this duplication, this redundancy.

For this reason I rise in opposition to this bill.

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

Mr. WYDEN. Mr. Speaker, I yield 5 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE], who has done outstanding work on this legislation.

Mr. ABERCROMBIE. I thank the gentleman for yielding. I thank the honorable chairman of the Committee on Energy and Commerce, Mr. DINGELL, and the chairman of the Subcommittee on Health of the that committee, Mr. WAXMAN, who has visited the State of Hawaii and who have visited all of the Hawaiian health systems that are promulgated in this legislation and who is vigorously in support of this legislation. He has rigorously pursued this issue, which is of the utmost importance of myself and of the native Hawaiian community.

As you may be aware, as the gentleman from California has indicated, Hawaii is unique in many ways. As we approach the centennial of the overthrow of the Hawaiian Kingdom, native Hawaiians are still suffering from the after shocks of that event.

If we are going to talk about debt, I can tell you we owe a debt, not just a debt of gratitude, not just the recognition of the well-deserved and famed Hawaiian hospitality, but a debt to the people of Hawaii, the native Hawaiians who were overthrown. The sovereignty of their nation was extinguished as a result of the intervention of the U.S. military forces.

Native Hawaiians have been continuously denied the right of their own history as well as their own destiny. This is why H.R. 5346 was introduced, the Native Hawaiian Health Care Act Amendments of 1992, as a companion measure to that introduced by Senators INOUYE and AKAKA, the legislation before us today for consideration.

Unfortunately, as has been indicated, some have questioned the appropriateness and the equity of establishing a taxpayer-funded, special categorical program to provide for the health needs of a specific population subgroup. To this I say they are sadly mistaken and misdirected in their beliefs, however sincerely held. We often find ourselves in situations of having to explain Hawaii's unique circumstances, particularly when it comes to the issues reflecting on the health and welfare of native Hawaiians, and this instance is no different.

Before westernization of the Pacific, the native Hawaiian population was, in effect, isolated from contact with much of the world. I want to emphasize that for you, Mr. Speaker, and for those who may be in opposition, in hopes they will reconsider. However, upon contact, native Hawaiians became particularly susceptible to diseases and other health difficulties which have raged within the native Hawaiian community for the past 100 years. The consequences have been horrendous. The native Hawaiian population has been reduced significantly.

In 1984, the Congress first addressed this issue by authorizing a comprehensive study of native Hawaiian health care needs. I have an extensive native Hawaiian health data book, extensively documented to back up this statement, Mr. Speaker. Consequently, after consultation with many of the natives in the native Hawaiian community, I want to emphasize, Mr. Speaker, this is a grassroots solution to the problem.

□ 1400

This is not being imposed from governmental direction on top. My understanding of some of the objections of some of the opponents to this legislation is they would like to get the Government out of people's lives in a way that recognizes only the imposition from the top.

This is a grassroots native Hawaiian movement which will be recognized in the Hawaiian community as such and thus have felicitous effects in terms of improving health.

Congress enacted the Native Hawaiian Health Care Act in 1988, authorizing the establishment of health promotion, disease prevention, and primary care services in the State of Hawaii for native Hawaiians, or persons of Hawaiian ancestry, through federally funded native Hawaiian health care systems.

Mr. Speaker, I cannot emphasize enough, we will be saving money, not expending more money, because people will not get into preventive care. They will find themselves in a situation in which they will act before they find themselves in such difficulties as to require massive expenditures, massive medical expenditures. We will be saving money, as well as saving lives.

Many people are familiar with the difficulties faced by the native American community. The gentleman from Oregon [Mr. WYDEN] has alluded to some of them, but few of them are aware of the troubles faced in particular.

Native Hawaiians, full-blood and part-Hawaiian, have a death rate that is 34 percent higher than the death rate for all other races in the United States.

If we group full-blooded Hawaiians by themselves, their death rate is 146 percent higher than all other races in the United States.

And in another category, the native Hawaiian rate for diabetes is 167 per 1,000, which is twice as high as the national rate.

The list of disparities continues. If is blatantly obvious that the effects of western settlement have abetted the reduction of native Hawaiian immune systems.

Mr. Speaker, I appeal to you, on the basis of compassion and humanity, on the basis that this kind of care will result in prevention of disease, on the basis of the debt owed to the Hawaiian people who have given so much to the rest of the world, I appeal to you that we can no longer tolerate the listing of native Hawaiians as an endangered people, and that is in fact what they are, an endangered people.

S. 2681 attempts to reverse this. We ask for your support, Mr. Speaker, and we ask for the support of the Members of this body.

Once again I appeal to the fundamental decency, kindness and compassion, in the context of the remarks of the previous speaker, that he recognize that this is an opportunity to extend that kind of law to the native Hawaiians that they extended to the rest of the people of the world.

Mr. WYDEN. Mr. Speaker, I yield 5 minutes to our colleague, the gentlewoman from Hawaii [Mrs. MINK], who has done an excellent job for many years in advocating improved human services programs, and particularly for the health of her constituents.

Mrs. MINK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I join my colleague, the gentleman from Hawaii [Mr. ABERCROMBIE] in supporting this Native Hawaiian Health Amendments of 1992, S. 2681.

I regret very much that there has been an indication of objection to the passage of this legislation. Even given the fact that the previous speaker, the gentleman from California, mentioned something about the necessity for dealing with the budget deficit and expressing the usual comments as a fiscal conservative, I would like to comment with respect to those thoughts on this subject.

This is unique. This is different. Those who object to the passage of this legislation, what I would like to do in my short 5 minutes is to put a different perspective on this legislation.

It is not pork. It is not simply spending for the sake of spending, which is what I determine as a definition, if there can be a definition of pork.

My colleagues in the House, the history of Hawaii is not very well understood. It is assumed always that the people in my State welcomed the opportunity to join this country. To the

contrary, as we say in Hawaii, the people of the islands were overtaken by the United States with military force.

As a matter of fact, in January of next year we will be observing the 100th year since that occurred in Hawaii.

Despite the sorrow of the loss of their kingdom and their Republic, the loss of their Queen Liliuokalani, her imprisonment in order for Hawaii to become part of the United States, the native Hawaiian community has over the 100 years tried to accommodate to the loss of their country, to the loss of their sovereignty, and to their independence.

They have served this country as distinguished citizens, fighting in our wars and contributing in numerous other ways.

The point of the fact is that after annexation, the first delegate to the Congress, Prince Kuhio, came and realized that there were problems, enormous problems, that the native population was being forced to endure. The culturalization shock; the population was decimated by disease. Simple things like measles killed nearly half the population, not to count all the other problems which they had to endure.

So when Prince Kuhio came to the Congress and asked for consideration special to the native Hawaiians, the Congress agreed and passed the Homestead Act, the 1920 Homestead Act.

People thought, well, this will be of such enormous consequence that the problems of the native Hawaiians will be solved. They were not. The Homestead Act segregated the native Hawaiian population into the far reaches of the island, secluded them from the progress that was to make Hawaii unique in the whole country and in the world. They were not able to take advantage of it. They lived way, way out in the country, in distant places. All these areas are part of my district.

So, Mr. Speaker, I am here today to ask this House to understand that the exclusion of the native Hawaiian people by the very acts of this Congress has created the problems that we are asking this body to help us solve today, and one of the most clear evidences of this discrimination and neglect is in the tragic health consequences of the native population. Coronary disease, diabetes, cholesterol levels, the things that we know, simple medicine, simple acceptance of medical practice could probably help them, but for a culturally distinct and segregated part of our community, it is not enough. They want an opportunity to look at their own problems and their own population and come up with solutions that their native population can understand and relate to, and it is very different than the practice of medicine that we all accept, going to a clinic daily or once a year or whatever our desires may be.

The native population of Hawaii looks to this Congress to amend the wrongs of the past, and I look upon this legislation as the first step.

Mr. Speaker, I hope that my colleagues will agree and pass this bill overwhelmingly.

Mr. Speaker, I join my colleague from Hawaii, Mr. ABERCROMBIE, in support of S. 2681, the Native Hawaiian Health Care Amendments of 1992. This legislation is of critical importance to the survival of the native population of the State of Hawaii.

S. 2681 seeks to improve the health and well-being of the native Hawaiian people through expanding and improving the native Hawaiian health care system originally established in the 1988 Native Hawaiian Health Care Act.

The health status of the native Hawaiian people has been deteriorating for over a century, and is far below that of other populations in the United States.

Once a strong, healthy, and thriving community, the native people of our islands suffered greatly from the foreign influences that began to arrive in Hawaii in the late 18th century. The introduction of previously unknown diseases, the breakdown of their culture, and suppression of traditional healing practices left a legacy of poor health and nutrition, poverty, and high mortality rates that continues today.

The native Hawaiian people currently suffer from extraordinarily high rates of heart disease, cancer, and chronic conditions, such as diabetes.

An Office of Technology Assessment study authorized by the Congress in 1984, which compared both Hawaiians and part-Hawaiians to other populations in the United States, found that, overall, native Hawaiians have a death rate that averages 34 percent higher than all other races in the United States.

Pure blooded Hawaiians have a death rate that is an astounding 146 percent higher than other Americans.

The study also revealed that native Hawaiians die from diabetes at a rate that is 222 percent higher than for all races in the United States.

Recent studies in the State of Hawaii show that 44 percent of all infant deaths in the State are native Hawaiian children, cancer rates among native Hawaiians far exceed other ethnic populations in our State, and health care services are often lacking in native Hawaiian communities.

The high incidence of mental illness and emotional disorders among native Hawaiians is attributed to the cultural isolation and alienation in a statewide population in which they now constitute about 20 percent.

Disenfranchised from their land, culture, and ability to self-govern, the native Hawaiian people have suffered a plight similar to that of the native American Indians on the continental United States. And it is the responsibility of the Federal Government to assist in our efforts to improve the health status of the native people of Hawaii.

Mr. Speaker, those who oppose this legislation seek to deny the native Hawaiian people of their right to the protections and benefits of Federal legislation created to acknowledge the special trust responsibility of this Nation's aboriginal peoples.

But for 18 years the Congress has recognized the native Hawaiians as native Americans, and on 36 occasions the Congress passed Federal laws that include native Hawaiians in programs or services that are designed to service native American communities, and Congress has consistently supported programs specifically designated for native Hawaiians.

One of the most important of these initiatives by the Congress was the Native Hawaiian Health Care Act of 1988.

I urge my colleagues to support S. 2681, which will help fulfill the original goal of the Native Hawaiian Health Care Act, to elevate and promote the health and well-being of the native Hawaiian people, so that they may function effectively as citizens and leaders in their homeland, and help determine and participate in the future of their culture, their race, and their land.

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

Mr. Speaker, our colleague, the gentleman from California [Mr. DANNEMEYER], essentially has made the argument that there is no need for a separate program for native Hawaiians because we already have a Community Health Center and National Health Service Corps Program to address the needs of the population; but that is not what the administration has been saying in "Healthy People 2000," its blueprint for improving the health status of all Americans, issued by Dr. Sullivan in 1990.

"Healthy People 2000" documents the low-health status of native Hawaiians that has been addressed so eloquently by the gentleman from Hawaii [Mr. ABERCROMBIE] and the gentlewoman from Hawaii [Mrs. MINK]. For example, the breast cancer rate among native Hawaiians is 30 percent higher than among whites.

We all know that increasing access to preventive and primary care would improve the health status of this population by funding this legislation. It will be possible to improve the health status by eliminating access barriers that exist in current programs.

Mr. Speaker, I hope all our colleagues will support this legislation, and I commend our two colleagues from Hawaii for bringing this legislation to our attention.

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Oregon [Mr. WYDEN] that the House suspend the rules and pass the Senate bill, S. 2681, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair will count.

A sufficient number has risen. The yeas and nays are ordered.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ABERCROMBIE. Mr. Speaker, could the Chair give me the count? It has to be two-thirds, does it not? Am I mistaken? What is a sufficient number?

The SPEAKER pro tempore. One-fifth of those present.

Mr. ABERCROMBIE. Can the Chair tell me how many were here? I understood two Members to be standing.

The SPEAKER pro tempore. The Chair counted standing more than one-fifth of those present.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1410

CONFERENCE REPORT ON H.R. 3508, HEALTH PROFESSIONS EDUCATION EXTENSION AMENDMENTS OF 1992

Mr. WYDEN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see prior proceedings of the House of today, Tuesday, September 29, 1992.)

The SPEAKER pro tempore. (Mr. McDERMOTT). The gentleman from Oregon [Mr. WYDEN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. WYDEN].

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

Mr. Speaker, I am pleased to present to the House the conference report on H.R. 3508, the Health Professions Education Extension Amendments of 1992.

The conference report is the result of months of negotiations. We are pleased the House, Senate, and Bush administration have resolved their differences. The result is the first comprehensive revision of health professions training programs in more than a decade.

The conference agreement contains a series of reforms that focus Federal resources upon training in primary care specialities and on individuals committed to serving in medically underserved communities.

The conference agreement places high priority on the education of mid-level nursing personnel such as nurse midwives and nurse practitioners. Funding priority is given to the education of masters degree level clinical specialists.

On behalf of Mr. WAXMAN, chairman of the Health and Environment Subcommittee, I want to acknowledge the important contributions of the gentleman from New Mexico [Mr. RICHARDSON], who has demonstrated strong leadership on behalf of expanding Federal support for nursing education and enhancing the role of the nursing profession in providing primary care services.

The conference agreement extends the HEAL Student Loan Program for 3 fiscal years, raises the credit ceiling, and includes a series of tough reforms designed to reduce default rates. The reforms will restore confidence in the administration of this program and assure health professions students the continued availability of federally insured loans.

A central figure of the conference report is its emphasis upon primary care training. The conference agreement restricts low-interest medical school loans to students pursuing a primary care career and extends for 3 fiscal years the authorization of appropriations for primary care programs in family medicine, general internal medicine, and general pediatrics.

The conference agreement also addresses concerns over discrimination against international medical school graduates. The agreement includes provisions prohibiting hospitals and other residency programs seeking funding under title VII of the Public Health Service Act from discriminating against applications from graduates of international medical schools.

The conference agreement also establishes a National Commission on Medical Licensure. The Commission will monitor implementation of the American Medical Association's national credentials verification system. It is expected the Commission and the AMA system will help remove arbitrary roadblocks to the licensing of physicians moving between States.

Other programs extended by the conference agreement include: Dental education traineeships, geriatric education, AIDS education and training, physician assistants, podiatric research, public health—special projects, traineeships, preventive medicine—health administration traineeships, allied health special projects and traineeships, and area and border health education centers.

Mr. Speaker, I am including a chart summarizing the level of authorized appropriations for programs authorized by the conference report for printing in the RECORD at the conclusion of my remarks.

Mr. Speaker, the conference report was recently approved by our Senate colleagues unanimously. I urge all Members to join in supporting this important legislation.

SUMMARY OF AUTHORIZATION LEVELS
H.R. 3508

[Fiscal year, in millions of dollars]

	Amounts
(1) Health education assistance loans (credit authority):	
1992	[1] 290
1993	400
1994	425
1995	475
(2) Scholarships for students of exceptional financial need (EFN):	
1992	[1] 9.759
1993	11.0
(3) Health Careers Opportunity Program [HCOP]:	
1992	[1] 30.6
1993	31.5
(4) Area health education centers:	
1992	[1] 19.237
1993	25.0
1994	25.0
1995	25.0
Border health education centers:	
1992	[1] 3.904
1993	5.0
1994	5.0
1995	5.0
(5) Family medicine (including departmental and residency programs):	
1992	[1] 42.93
1993	54.0
1994	54.0
1995	54.0
(6) General internal medicine and general pediatrics:	
1992	[1] 17.26
1993	25.0
1994	25.0
1995	25.0
(7) General dentistry:	
1992	[1] 3.834
1993	6.0
1994	6.0
1995	6.0
(8) Physician assistants:	
1992	[1] 5.021
1993	9.0
1994	9.0
1995	9.0
(9) Podiatrists:	
1992	[1] .60
1993	1.0
1994	1.0
1995	1.0
(10) Public health (including special projects, traineeships, preventive medicine, dental public health):	
1992	[1] 9.37
1993	15.5
1994	15.5
1995	15.5
(11) Allied health (special projects):	
1992	[1] 2.83
1993	5.0
1994	5.0
1995	5.0
Traineeships:	
1992	[1] 0
1993	5.0
1994	5.0
1995	5.0
(12) Health administration (including special projects and traineeships):	
1992	[1] 2.03
1993	2.5

SUMMARY OF AUTHORIZATION LEVELS
H.R. 3508—Continued

[Fiscal year, in millions of dollars]

	Amounts
1994	2.5
1995	2.5
(13) HIV Training (general):	
1992	[1] 17.02
1993	25.0
1994	25.0
1995	25.0
Dental HIV:	
1992	[1] 5.0
1993	7.0
1994	7.0
1995	7.0
(14) Geriatrics (training and centers):	
1992	[1] 13.7
1993	17.0
1994	17.0
1995	17.0
Geriatric optometry:	
1992	[1] 0
1993	.4
1994	.4
1995	.4
(15) Rural health projects:	
1992	[1] 4.697
1993	7.0
1994	7.0
1995	7.0
(16) Health professions research:	
1992	[1] 0
1993	4.0
1994	4.0
1995	4.0
(17) Chiropractic demonstration projects:	
1992	[1] 0
1993	1.0
1994	1.0
1995	1.0
(18) Nursing special projects:	
1992	[1] 10.9
1993	10.5
1994	10.5
(19) Advanced nurse education:	
1992	[1] 12.37
1993	12.0
1994	12.0
(20) Nurse practitioner/nurse midwife programs:	
1992	[1] 14.56
1993	20.0
1994	20.0
(21) Nurse disadvantaged assistance:	
1992	[1] 3.375
1993	5.0
1994	6.0
(22) Traineeships for advanced education:	
1992	[1] 14.1
1993	20.0
1994	20.0
(23) Nurse anesthetists:	
1992	[1] 1.9
1993	3.0
1994	4.0
(24) Nursing loan repayment:	
1992	[1] 1.45
1993	5.0
1994	6.0
(25) Residency programs in emergency medicine:	
1992	[1] 0
1993	.4
1994	.4
1995	.4

[1] Actual appropriation.

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

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

Mr. Speaker, I rise in support of this legislation.

I have a statement from my colleague, the gentleman from Virginia [Mr. BLILEY], who is also a member of the Health and Environment Subcommittee, who wanted to be here today. He was a conferee of the conference report, and, were he here, he would have made the statement that I hand to the Clerk.

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

Mr. WYDEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], who has done outstanding work on this legislation, has pursued it tirelessly and advocates the many health concerns provided by this legislation.

Mr. RICHARDSON. Mr. Speaker, as a conferee of what may possibly be the longest running conference in history—the conference on the health professions education amendments—I rise in strong support of the conference report on H.R. 3508, reauthorizing the health professions title of the Public Health Service Act.

While I cannot mention all of the important provisions of this legislation, I am particularly pleased at the inclusion of legislation I sponsored—the Nursing Education Amendments of 1991 in the conference report on H.R. 3508. I also want to highlight the extraordinary emphasis this conference report places on primary care education and access throughout title VII and VIII.

I am also pleased by changes made in the title VII Centers of Excellence Program for Hispanics and native Americans establishing a minimum level of funding for Hispanic and native American Centers of Excellence and maintaining appropriations levels for the program.

We are currently in the midst of a serious and sustained nursing shortage which is only rivaled by the nursing shortage of the 1950's. Reports on the nursing profession by the American Nurses Association indicate that one of every eight registered nurse positions in hospitals goes unfilled. The scenario is even worse in nursing homes where one in every five RN positions goes unfilled.

Who is hurt most by the ongoing nursing shortage? Precisely those who can least afford it—the medically undeserved populations residing in frontier, rural, and inner-city areas of our Nation. Right now, over 1,300 rural areas alone have been designated as medically undeserved. To meet the demand for health care in just these areas would require 4,224 physicians.

Physicians however, continue to have a difficult time maintaining viable practices in shortage areas. This, combined with the aging of the existing rural physician population, necessitates that we investigate the needs of rural and urban underserved populations.

Nurses have always responded to the needs and concerns of our poorest citizens and I believe we must again turn to the nursing profession to respond to the Nation's rural and inner-city health care crisis.

The conference report maintains the emphasis my original legislation placed on focusing our limited health care resources on training and educating those nursing professionals—clinical nurse specialists, nurse practitioners, nurse midwives, and nurse anesthetists—best equipped to meet the health care needs of undeserved areas and would increase funding for these programs by nearly $10 million over 3 years.

I believe our money will be well spent. The advanced training of nurse specialists and nurse practitioners allows them to provide up to 80 percent of adult primary care services and up to 90 percent of the pediatric primary care services usually performed by a physician.

Nurse midwives have traditionally and continue to direct their services toward women most at risk for developing health care problems because of inadequate access to child bearing and health care services.

Finally, the conference report separates the reauthorization cycles of title VIII—nursing education from title VII governing other health professions education which I believe will put greater emphasis and importance on funding nursing education.

In closing, I want to thank my colleagues in the Senate and in the House, especially the chairman of the subcommittee, Mr. WAXMAN, and the chairman of the full committee, Mr. DINGELL, for their cooperation and efforts in working with me on nursing education. This is excellent legislation because of their commitment and understanding of primary care concerns and the needs of both rural and urban underserved areas. I urge my colleagues support of this critical legislation.

Mr. WYDEN. Mr. Speaker, I thank the gentleman from New Mexico [Mr. RICHARDSON] for his kind comments. I commend him for all his efforts.

Mr. BLILEY. Mr. Speaker, I rise in support of the conference agreement.

This legislation extends funding authority for many important programs that provide training, scholarships, and loans for a broad spectrum of individuals who desire to enter the health professions. The legislation extends to training programs for physicians, nurses, and many other health care providers.

Mr. Speaker, the programs authorized by this legislation are carried out by medical, chiropractic, and dental schools, schools of

nursing, allied health professional training centers, and hospitals throughout the country—in every State and virtually every congressional district. I am pleased to support it.

This legislation makes a number of changes in current law that are designed to focus health professions training on the area of greatest need—primary care health services. The bill provides incentives, and creates special funding mechanisms, for schools and students who will make a commitment to primary health care. The old-fashioned family doctor, who can take care of your family's health care needs from childhood through adulthood, and from the common cold to an appendectomy, is a concept of the past. We are increasingly immersed in the age of specialization. This is creating problems for our health care system.

Access to care in one setting, by a single provider, is increasingly limited. This forces people to go from place to place, and from provider to provider, to meet all of their health care needs. This makes health care difficult and inconvenient, and it makes it more expensive. The combination of those factors works against achieving what we all favor—better preventive care, early diagnosis, and regular, routine, health care for the purpose of maintaining health.

H.R. 3508 is a step in the direction of solving this problem.

Finally, this legislation makes a number of significant and needed reforms in the health education assistance loan, or HEAL Program. The changes are designed to reduce the increasing rate of defaults on these Government-insured health professions student loans. These provisions are strongly supported by the administration.

Mr. Speaker, I am pleased to support this legislation.

Mr. WYDEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I have no requests for time. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. WYDEN] that the House suspend the rule and agree to the conference report on the bill, H.R. 3508.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1420

RESERVE OFFICER PERSONNEL MANAGEMENT ACT

Mrs. BYRON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4481) to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the reserve components, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4481

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Reserve Officer Personnel Management Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 10, United States Code.

TITLE I—RESERVE OFFICER PERSONNEL MANAGEMENT

PART A—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

Sec. 101. Promotion and retention of reserve officers.

PART B—CONFORMING AMENDMENTS

Sec. 111. Definition of reserve active-status list.
Sec. 112. Authority to suspend officer personnel laws during war or national emergency.
Sec. 113. Active-duty list promotion boards to have authority to recommend that reserve officers considered for promotion be required to show cause for retention on active duty.
Sec. 114. Applicability of chapter 36 to reserve officers during war or national emergency.
Sec. 115. Grade in which reserve officers are ordered to active duty.
Sec. 116. Date of rank.
Sec. 117. Discharge before completion of required service in case of officers having twice failed of selection for captain or navy lieutenant.
Sec. 118. Conforming amendments relating to Navy and Marine Corps officers.
Sec. 119. Repeal of reserve officer personnel policy laws.
Sec. 120. Amendments to title 32, United States Code.

TITLE II—OTHER PERSONNEL POLICY AMENDMENTS

PART A—APPOINTMENTS

Sec. 201. Repeal of separate authority for accession of women in reserve components.
Sec. 202. Appointment authority for reserve grades of lieutenant colonel and commander.
Sec. 203. Appointment of former commissioned officers in reserve components.
Sec. 204. Constructive credit for appointment of officers in reserve components with qualifying education or experience.
Sec. 205. Computation of years of service for transfer of Army officers to Retired Reserve.
Sec. 206. Repeal of miscellaneous obsolete appointment authorities.

PART B—RETIREMENT AND SEPARATION

Sec. 221. Computation of highest grade in which satisfactorily served for reserve commissioned officers and former officers.

PART C—OTHER AMENDMENTS

Sec. 241. Tenure in office of Chief of National Guard Bureau.
Sec. 242. Right to reenlist in Regular Army or Regular Air Force after service as an officer.

TITLE III—REORGANIZATION AND CONSOLIDATION OF LAWS RELATING TO RESERVE COMPONENTS

Sec. 301. Laws relating to organization and administration of reserve components.
Sec. 302. Laws relating to reserve component personnel policy.
Sec. 303. Laws relating to reserve component training and educational assistance programs.
Sec. 304. Laws relating to reserve component procurement and equipment.
Sec. 305. Legislative construction.

TITLE IV—TECHNICAL AND CLERICAL AMENDMENTS

Sec. 401. Amendments to subtitle A of title 10, United States Code.
Sec. 402. Amendments to subtitle B of title 10, United States Code.
Sec. 403. Amendments to subtitle C of title 10, United States Code.
Sec. 404. Amendments to subtitle D of title 10, United States Code.
Sec. 405. Amendments to subtitle E of title 10, United States Code.
Sec. 406. Amendments to titles 32 and 37, United States Code.
Sec. 407. Amendments to other laws.

TITLE V—TRANSITION PROVISIONS

Sec. 501. Continuation on the reserve active-status list of certain reserve colonels of the Army and Air Force.
Sec. 502. Effects of selection for promotion and failure of selection for Army and Air Force officers.
Sec. 503. Effects of selection for promotion and failure of selection for Navy and Marine Corps officers.
Sec. 504. Delays in promotions and removals from promotion list.
Sec. 505. Minimum service qualifications for promotion.
Sec. 506. Establishment of reserve active-status list.
Sec. 507. Preservation of relative seniority under the initial establishment of the reserve active-status list.
Sec. 508. Grade on transfer to the Retired Reserve.
Sec. 509. Rights for officers with over three years service.
Sec. 510. Mandatory separation for age for certain reserve officers of the Navy and Marine Corps.

TITLE VI—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

Sec. 601. Effective dates.
Sec. 602. Preservation of suspended status of laws suspended as of effective date.
Sec. 603. Preservation of preexisting rights, duties, penalties, and proceedings.

SEC. 2. REFERENCES TO TITLE 10, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

TITLE I—RESERVE OFFICER PERSONNEL MANAGEMENT

PART A—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

SEC. 101. PROMOTION AND RETENTION OF RESERVE OFFICERS.

Title 10, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle E—Reserve Components

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap. Sec.
"1001. Definitions 10001

"1003. Reserve Components Generally .. 10101
"1005. Elements of Reserve Components 10141
"1007. Administration of Reserve Components 10201
"1009. Reserve Forces Policy Boards and Committees 10301
"1011. National Guard Bureau 10501
"1013. Budget Information and Annual Reports to Congress 10541

"PART II—PERSONNEL GENERALLY

"1201. Authorized Strengths and Distribution in Grade 12001
"1203. Enlisted Members 12101
"1205. Appointment of Reserve Officers 12201
"1207. Warrant Officers 12241
"1209. Active Duty 12301
"1211. National Guard Members in Federal Service 12401
"1213. Special Appointments, Assignments, Details, and Duties 12501
"1215. Miscellaneous Prohibitions and Penalties .....
[No present sections]
[No present sections]
"1217. Miscellaneous Rights and Benefits 12601
"1219. Standards and Procedures for Retention and Promotion 12641
"1221. Separation 12681
"1223. Retired Pay for Non-Regular Service 12731
"1225. Retired Grade 12771

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve-Active Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"1601. Training Generally .....
[No present sections]
[No present sections]
"1606. Educational Assistance for Members of the Selected Reserve 16131
"1608. Health Professions Stipend Program 16201
"1609. Education Loan Repayments 16301

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"1801. Issue of Serviceable Material to Reserve Components .....
[No present sections]
[No present sections]
"1803. Facilities for Reserve Components 18231
"1805. Miscellaneous Provisions 18501

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"Chap. Sec.
"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve Active-Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"CHAPTER 1401—APPLICABILITY AND RESERVE ACTIVE-STATUS LISTS

"Sec.
"14001. Applicability of this part.
"14002. Reserve active-status lists: requirement for each armed force.
"14003. Reserve active-status lists: position of officers on the list.
"14004. Reserve active-status lists: eligibility for Reserve promotion.
"14005. Competitive categories.
"14006. Determination of years in grade.

"§14001. Applicability of this part

"This chapter and chapters 1403 through 1411 of this title apply, as appropriate, to all reserve officers of the Army, Navy, Air Force, and Marine Corps except warrant officers.

"§14002. Reserve active-status lists: requirement for each armed force

"(a) The Secretary of each military department shall maintain a single list, to be known as the reserve active-status list, for each armed force under the Secretary's jurisdiction. That list shall include the names of all reserve officers of that armed force who are in an active status other than those on an active-duty list described in section 620 of this title or warrant officers (including commissioned warrant officers).

"(b) The reserve active-status list for the Army shall include officers in the Army Reserve and the Army National Guard of the United States. The reserve active-status list for the Air Force shall include officers in the Air Force Reserve and the Air National Guard of the United States. The Secretary of the Navy shall maintain separate lists for the Naval Reserve and the Marine Corps Reserve.

"§14003. Reserve active-status: position of officers on the list

"(a) POSITION ON LIST.—Officers shall be carried on the reserve active-status list of the armed force of which they are members in the order of seniority of the grade in which they are serving in an active status. Officers serving in the same grade shall be carried in the order of their rank in that grade.

"(b) EFFECT ON POSITION HELD BY REASON OF TEMPORARY APPOINTMENT OR ASSIGNMENT.—An officer whose position on the reserve active-status list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on that list that the officer would have held if the officer had not received that appointment or assignment.

"§14004. Reserve active-status lists: eligibility for Reserve promotion

"Except as otherwise provided by law, an officer must be on a reserve active-status list to be eligible under chapter 1405 of this title for consideration for selection for promotion or for promotion.

"§14005. Competitive categories

"Each officer whose name appears on a reserve active-status list shall be placed in a competitive category. The competitive categories for each armed force shall be specified by the Secretary of the military department concerned under regulations prescribed by the Secretary of Defense. Officers in the same competitive category shall compete among themselves for promotion.

"§14006. Determination of years in grade

"For the purpose of chapters 1403 through 1411 of this title, an officer's years of service in a grade are computed from the officer's date of rank in grade as determined under section 741(d) of this title.

"CHAPTER 1403—SELECTION BOARDS

"Sec.
"14101. Convening of selection boards.
"14102. Selection boards: appointment and composition.
"14103. Oath of members.
"14104. Confidentiality of board proceedings.
"14105. Notice of convening of selection board.
"14106. Communication with board by officers under consideration.
"14107. Information furnished by the Secretary concerned to promotion boards.
"14108. Recommendations by promotion boards.
"14109. Reports of promotion boards: in general.
"14110. Reports of promotion boards: review by Secretary.
"14111. Reports of selection boards: transmittal to President.
"14112. Dissemination of names of officers selected.

"§14101. Convening of selection boards

"(a) PROMOTION BOARDS.—(1) Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned shall convene a selection board to recommend for promotion to the next higher grade, under chapter 1405 of this title, officers on the reserve active-status list of that armed force in a permanent grade from first lieutenant through brigadier general or, in the case of the Naval Reserve, lieutenant (junior grade) through rear admiral (lower half). A selection board convened under this subsection shall be known as a 'promotion board'.

"(2) A promotion board convened to recommend reserve officers of the Army or reserve officers of the Air Force for promotion (A) to fill a position vacancy under section 14315 of this title, or (B) to the grade of brigadier general or major general, shall (except in the case of a board convened to consider officers as provided in section 14301(e) of this title) be known as a 'vacancy promotion board'. Any other promotion board convened under this subsection shall be known as a 'mandatory promotion board'.

"(b) CONTINUATION BOARDS.—Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned may convene a selection board to recommend officers of that armed force—

"(1) for continuation on the reserve active-status list under section 14701 of this title;

"(2) for selective early removal from the reserve active-status list under section 14704 of this title; or

"(3) for selective early retirement under section 14705 of this title.

A selection board convened under this subsection shall be known as a 'continuation board'.

"§14102. Selection boards: appointment and composition

"(a) APPOINTMENT.—Members of selection boards convened under section 14101 shall be appointed by the Secretary of the military department concerned in accordance with this section. Promotion boards and special selection boards shall consist of five or more officers. Continuation boards shall consist of three or more officers. All of the officers of any such selection board shall be of the same armed force as the officers under consideration by the board.

"(b) COMPOSITION.—At least one-half of the members of such a selection board shall be reserve officers, to include at least one reserve officer from each reserve component from which officers are to be considered by the board. Each member of a selection board must hold a permanent grade higher than the grade of the officers under consideration by the board, and no member of a board may hold a grade below major or lieutenant commander.

"(c) REPRESENTATION OF COMPETITIVE CATEGORIES.—(1) Except as provided in paragraph (2), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(2) A selection board need not include an officer from a competitive category to be considered by the board if there is no officer of that competitive category on the reserve active-status list or the active-duty list in a permanent grade higher than the grade of the officers to be considered by the board and otherwise eligible to serve on the board. However, in such a case, the Secretary of the military department concerned, in his discretion, may appoint as a member of the board a retired officer of that competitive category who is in the same armed force as the officers under consideration by the board who holds a higher grade than the grade of the officers under consideration.

"(d) PROHIBITION OF SERVICE ON CONSECUTIVE PROMOTION BOARDS.—No officer may be a member of two successive promotion boards convened under section 14101(a) of this title for the consideration of officers of the same competitive category and grade if the second of the two boards is to consider any officer who was considered and not recommended for promotion to the next higher grade by the first of the two boards.

"§14103. Oath of members

"Each member of a selection board convened under section 14101 of this title shall take an oath to perform the duties of a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of the member's armed force.

"§14104. Confidentiality of board proceedings

"Except as otherwise authorized or required by law, the proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.

"§14105. Notice of convening of promotion board

"(a) REQUIRED NOTICE.—At least 30 days before a promotion board is convened under section 14101(a) of this title to consider officers in a grade and competitive category for promotion to the next higher grade, the Secretary concerned shall either (1) notify in writing the officers eligible for consideration by the board for promotion regarding the convening of the board, or (2) issue a general written notice to the armed force concerned regarding the convening of the board.

"(b) CONTENT OF NOTICE.—A notice under subsection (a) shall include the date on which the board is to convene and (except in the case of a vacancy promotion board) the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notice.

"§14106. Communication with board by officers under consideration

"Subject to regulations prescribed by the Secretary of the military department concerned, an officer eligible for consideration by a promotion board convened under section 14101(a) of this title who is in the promotion zone or above the promotion zone, or who is to be considered by a vacancy promotion board, may send a written communication to the board calling attention to any matter concerning the officer which the officer considers important to the officer's case. Any such communication shall be sent so as to arrive not later than the date on which the board convenes. The board shall give consideration to any timely communication under this section.

"§14107. Information furnished by the Secretary concerned to promotion boards

"(a) INTEGRITY OF THE PROMOTION SELECTION BOARD PROCESS.—(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 14101(a) of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

"(2) No information concerning a particular eligible officer may be furnished to a selection board except for the following:

"(A) Information that is in the officer's official military personnel file and that is provided to the selection board in accordance with the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

"(B) Other information that is determined by the Secretary of the military department concerned, after review by that Secretary in accordance with standards and procedures set out in the regulations prescribed by the Secretary of defense pursuant to paragraph (1), to be substantiated, relevant information that could reasonably and materially affect the deliberations of the promotion board.

"(C) Subject to such limitations as may be prescribed in those regulations, information communicated to the board by the officer in accordance with this section, section 14106 of this title (including any comment on information referred to in subparagraph (A) regarding that officer), or other applicable law.

"(D) A factual summary of the information described in subparagraphs (A), (B), and (C) that, in accordance with the regulations prescribed pursuant to paragraph (1) is prepared by administrative personnel for the purpose of facilitating the work of the selection board.

"(3) Information provided to a promotion board in accordance with paragraph (2) shall be made available to all members of the board and shall be made a part of the record of the board. Communication of such information shall be in a written form or in the form of an audio or video recording. If a communication is in the form of an audio or video recording, a written transcription of the recording shall also be made a part of the record of the promotion board.

"(4) Paragraphs (2) and (3) do not apply to the furnishing of appropriate administrative processing information to the promotion board by an administrative staff designated to assist the board, but only to the extent that oral communications are necessary to facilitate the work of the board.

"(5) Information furnished to a promotion board that is described in subparagraph (B), (C), or (D) of paragraph (2) may not be furnished to a later promotion board unless—

"(A) the information has been properly placed in the official military personnel file of the officer concerned; or

"(B) the information is provided to the later selection board in accordance with paragraph (2).

"(6)(A) Before information described in paragraph (2)(B) regarding an eligible officer is furnished to a selection board, the Secretary of the military department concerned shall ensure—

"(i) that such information is made available to such officer; and

"(ii) that the officer is afforded a reasonable opportunity to submit comments on that information to the promotion board.

"(B) If an officer cannot be given access to the information referred to in subparagraph (A) because of its classification status, the officer shall, to the maximum extent practicable, be furnished an appropriate summary of the information.

"(b) INFORMATION TO BE FURNISHED.—The Secretary of the military department concerned shall furnish to a promotion board convened under section 14101(a) of this title the following:

"(1) In the case of a mandatory promotion board, the maximum number (as determined in accordance with section 14307 of this title) of officers in each competitive category under consideration that the board is authorized to recommend for promotion to the next higher grade.

"(2) The name of each officer in each competitive category under consideration who is to be considered by the board for promotion.

"(3) The pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board.

"(4) Information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including (except in the case of a vacancy promotion board) guidelines or information relating to either a minimum number or a maximum number of officers with particular skills within a competitive category.

"(5) Such other information or guidelines as the Secretary concerned may determine to be necessary to enable the board to perform its functions.

"(c) LIMITATION ON MODIFYING FURNISHED INFORMATION.—Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits its report to the Secretary of the military department concerned pursuant to section 14109(a) of this title. However, in the case of a report returned to a board pursuant to section 14110(a) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

"(d) OFFICERS IN HEALTH-PROFESSIONS COMPETITIVE CATEGORIES.—The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a promotion board convened under section 14101(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of the Navy, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

"§14108. Recommendations by promotion boards

"(a) RECOMMENDATION OF BEST QUALIFIED OFFICERS.—A promotion board convened under section 14101(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board considers best qualified for promotion within each competitive category considered by the board or, in the case of a vacancy promotion board, among those officers considered to fill a vacancy. In determining those officers who are best qualified for promotion, the board shall give due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under sections 14107 of this title).

"(b) MAJORITY REQUIRED.—A promotion board convened under section 14101(a) of this title may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) BOARD RECOMMENDATION REQUIRED FOR PROMOTION.—Except as otherwise provided by law, an officer on the reserve active-status list may not be promoted to a higher grade under chapter 1405 of this title unless the officer is considered and recommended for promotion to

that grade by a promotion board convened under section 14101(a) of this title (or by a special selection board convened under section 14502 of this title).

"(d) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a promotion board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 14109 of this title, is signed by each member of the board.

"(e) PROHIBITION OF COERCION AND UNAUTHORIZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—The Secretary convening a promotion board under section 14101(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

"(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

"(2) attempt to coerce or, by any unauthorized means, influence any action of a promotion board or any member of a promotion board in the formulation of the board's recommendations.

"§14109. Reports of promotion boards: in general

"(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the officers recommended by the board for promotion. The report shall be signed by each member of the board.

"(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

"(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

"(2) that, in the case of a promotion board convened under section 14101(a) of this title, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 14107 of this title) among those officers whose names were furnished to the selection board.

"(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required to show cause for retention in an active status.

"(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.

"§14110. Reports of promotion boards: review by Secretary

"(a) REVIEW OF REPORT.—Upon receipt of the report of a promotion board submitted under section 14109(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title. Following that review, unless the Secretary concerned makes a determination as described in subsection (b), the Secretary shall submit the report as required by section 14111 of this title.

"(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 14101(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 14109 of this title.

"§14111. Reports of selection boards: transmittal to President

"(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section 14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.

"(b) REMOVAL OF NAME FROM BOARD REPORT.—The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

"(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT.—If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an officer be removed from the report of a promotion board and the recommendation is accompanied by information that was not presented to that promotion board, that information shall be made available to that officer. The officer shall then be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.

"§14112. Dissemination of names of officers selected

"Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

"CHAPTER 1405—PROMOTIONS

"Sec.
"14301. Eligibility for consideration for promotion: general rules.
"14302. Promotion zones.
"14303. Eligibility for consideration for promotion: minimum years of service in grade.
"14304. Eligibility for consideration for promotion: maximum years of service in grade.
"14305. Establishment of promotion zones: mandatory consideration for promotion.
"14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system.
"14307. Numbers of officers to be recommended for promotion.
"14308. Promotions: how made.
"14309. Acceptance of promotion: oath of office.
"14310. Removal of officers from a list of officers recommended for promotion.
"14311. Delay of promotion: involuntary.
"14312. Delay of promotion: voluntary.
"14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half).
"14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; state adjutants general.
"14315. Position vacancy promotions: Army and Air Force officers.
"14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion.
"14317. Officers in transition to and from the active-status list or active-duty list.

"§14301. Eligibility for consideration for promotion: general rules

"(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

"(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

"(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

"(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.

"(c) PREVIOUSLY SELECTED OFFICERS NOT ELIGIBLE TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade—

"(1) an officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title;

"(2) an officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to the next higher grade as a reserve of the Army or of the Air Force as the case may be; or

"(3) an officer who has been nominated by the President for promotion to the next higher grade under any other provision of law.

"(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion. The regulations shall include criteria for determining which officers

below the promotion zone are exceptionally well qualified for promotion.

"(e) RESERVE OFFICERS OF THE ARMY; CONSIDERATION FOR BRIGADIER GENERAL AND MAJOR GENERAL.—In the case of officers of the Army, if the Secretary of the Army determines that vacancies are authorized or anticipated in the reserve grades of major general or brigadier general for officers who are on the reserve active-status list and who are not assigned to units organized to serve as a unit and the Secretary convenes a mandatory promotion board under section 14101(a) of this title to consider officers for promotion to fill such vacancies, the Secretary may limit the officers to be considered by that board to those determined to be exceptionally well qualified for promotion under such criteria and procedures as the Secretary may by regulation prescribe.

"(f) CERTAIN RESERVE OFFICERS OF THE AIR FORCE.—A reserve officer of the Air Force who (1) is in the Air National Guard of the United States and holds the grade of lieutenant colonel, colonel, or brigadier general, or (2) is in the Air Force Reserve and holds the grade of colonel or brigadier general, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

"(g) NONCONSIDERATION OF OFFICERS SCHEDULED FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—The Secretary of the military department concerned may, by regulation, provide for the exclusion from consideration for promotion by a promotion board of any officer otherwise eligible to be considered by the board who has an established date for removal from the reserve active-status list that is not more than 90 days after the date on which the selection board for which the officer would otherwise be eligible is to be convened.

"§14302. Promotion zones

"(a) PROMOTION ZONES GENERALLY.—For purposes of this chapter, a promotion zone is an eligibility category for the consideration of officers by a mandatory promotion board. A promotion zone consists of those officers on the reserve active-status list who are in the same grade and competitive category and who meet the requirements of both paragraphs (1) and (2) or the requirements of paragraph (3), as follows:

"(1)(A) In the case of officers in grades below colonel, for reserve officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Naval Reserve, those who have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(B) In the case of officers in the grade of colonel or brigadier general, for reserve officers of the Army and Marine Corps, or in the grade of captain or rear admiral (lower half), for reserve officers of the Navy, those who have neither (i) been recommended for promotion to the next higher grade when considered in the promotion zone, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(2) Those officers who are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade and the officer so designated.

"(3) Those officers who—

"(A) have been selected from below the zone for promotion to the next higher grade or by a vacancy promotion board, but whose names were removed from the list of officers recommended for promotion to that next higher grade resulting from that selection;

"(B) have not failed of selection for promotion to that next higher grade; and

"(C) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to that next higher grade and the officer so designated.

"(b) OFFICERS ABOVE THE ZONE.—Officers on the reserve active-status list are considered to be above the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are senior to the senior officer in the promotion zone for that competitive category.

"(c) OFFICERS BELOW THE ZONE.—Officers on the reserve active-status list are considered to be below the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are junior to the junior officer in the promotion zone for that competitive category.

"§14303. Eligibility for consideration for promotion: minimum years of service in grade

"(a) OFFICERS IN PAY GRADES O–1 AND O–2.—An officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant as a reserve officer of the Army, Air Force, or Marine Corps, or in the grade of ensign or lieutenant (junior grade) as a reserve officer of the Navy, may not be promoted to the next higher grade, or granted Federal recognition in that grade, until the officer has completed the following years of service in grade:

"(1) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

"(2) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

"(b) OFFICERS IN PAY GRADES O–3 AND ABOVE.—Subject to subsection (d), an officer who is on the reserve active-status list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant, or who is on the reserve active-status list of the Navy in a grade above lieutenant (junior grade), may not be considered for selection for promotion to the next higher grade, or examined for Federal recognition in the next higher grade, until the officer has completed the following years of service in grade:

"(1) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

"(2) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

This subsection does not apply to an adjutant general or assistant adjutant general of a State or to an appointment in a higher grade which is based upon a specific provision of law.

"(c) AUTHORITY TO LENGTHEN MINIMUM PERIOD IN GRADE.—The Secretary concerned may prescribe a period of service in grade for eligibility for promotion, in the case of officers to whom subsection (a) applies, or for eligibility for consideration for promotion, in the case of officers to whom subsection (b) applies, that is longer than the applicable period specified in that subsection.

"(d) WAIVERS TO ENSURE TWO BELOW-THE-ZONE CONSIDERATIONS.—Subject to section 14307(b) of this title, the Secretary of the military department concerned may waive subsection (b) to the extent necessary to ensure that officers described in paragraph (1) of that subsection have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

"§14304. Eligibility for consideration for promotion: maximum years of service in grade

"(a) CONSIDERATION FOR PROMOTION WITHIN SPECIFIED TIMES.—(1) Officers described in paragraph (3) shall be placed in the promotion zone for that officer's grade and competitive category, and shall be considered for promotion to the next higher grade by a promotion board convened under section 14101(a) of this title, far enough in advance of completing the years of service in grade specified in the following table so that, if the officer is recommended for promotion, the promotion may be effective on or before the date on which the officer will complete those years of service.

"Current Grade	*Maximum years of service in grade*
"First lieutenant or Lieutenant (junior grade)	*5 years*
"Captain or Navy Lieutenant	*7 years*
"Major or Lieutenant commander	*7 years*

"(2) Paragraph (1) is subject to subsections (a), (b), and (c) of section 14301 of this title and applies without regard to vacancies.

"(3) Paragraph (1) applies to an officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and who holds a permanent appointment in the grade of first lieutenant, captain, or major as a reserve of the Army, Air Force, or Marine Corps, or to an officer on the reserve active-status list of the Navy in the grade of lieutenant (junior grade), lieutenant, or lieutenant commander as a reserve of the Navy, and who, while holding that appointment, has not been considered by a selection board convened under section 14101(a) or 14502 of this title for promotion to the next higher grade.

"(b) PROMOTION DATE.—An officer holding a permanent grade specified in the table in subsection (a) who is recommended for promotion to the next higher grade by a selection board the first time the officer is considered for promotion while in or above the promotion zone and who is placed on an approved promotion list established under section 14308(a) of this title shall (if not promoted sooner or removed from that list by the President or by reason of declination) be promoted, without regard to the existence of a vacancy, on the date on which the officer completes the maximum years of service in grade specified in subsection (a). The preceding sentence is subject to the limitations of section 12011 of this title.

"(c) WAIVER AUTHORITY FOR NAVY AND MARINE CORPS RUNNING MATE SYSTEM.—If the Secretary of the Navy establishes promotion zones for officers on the reserve active-status list of the Navy or the Marine Corps Reserve in accordance with a running mate system under section 14306 of this title, the Secretary may waive the requirements of subsection (a) to the extent the Secretary considers necessary in any case in which the years of service for promotion, or for consideration for promotion, within those zones will exceed the maximum years of service in grade specified in subsection (a).

"§14305. Establishment of promotion zones: mandatory consideration for promotion

"(a) ESTABLISHMENT OF ZONE.—Before convening a mandatory promotion board under section 14101(a) of this title, the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

"(b) NUMBER IN THE ZONE.—The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category under the provisions of sections 14303 and 14304 of this title and who are otherwise eligible for promotion.

"(c) FACTORS IN DETERMINING NUMBER IN THE ZONE.—The Secretary's determination under subsection (b) shall be made on the basis of an estimate of the following:

"(1) The number of officers needed in that competitive category in the next higher grade in each of the next five years.

"(2) In the case of a promotion zone for officers to be promoted to a grade to which the maximum years of in grade criteria established in section 14304 of this title apply, the number of officers in that competitive category who are required to be considered for selection for promotion to the next higher grade under that section.

"(3) The number of officers that should be placed in the promotion zone in each of the next five years to provide to officers in those years relatively similar opportunities for promotion.

"§14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system

"(a) AUTHORITY OF SECRETARY OF THE NAVY.—The Secretary of the Navy may by regulation implement section 14305 of this title by requiring that the promotion zone for consideration of officers on the reserve active-status list of the Navy or the Marine Corps for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

"(b) ASSIGNMENT OF RUNNING MATES.—An officer to whom a running mate system applies shall be assigned as a running mate an officer of the same grade on the active-duty list of the same armed force. The officer on the reserve active-status list is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title when that officer's running mate is in or above the promotion zone established for that officer's grade under chapter 36 of this title.

"(c) CONSIDERATION OF OFFICERS BELOW THE ZONE UNDER A RUNNING MATE SYSTEM.—If the Secretary of the Navy authorizes the selection of officers for promotion from below the promotion zone in accordance with section 14307 of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system or otherwise as the Secretary determines to be appropriate to meet the needs of the Navy or Marine Corps.

"§14307. Number of officers to be recommended for promotion

"(a) DETERMINATION OF MAXIMUM NUMBER.—Before convening a promotion board under section 14101(a) of this title for a grade and competitive category (other than a vacancy promotion board), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine the maximum number of officers in that grade and competitive category that the board may recommend for promotion. The Secretary shall make the determination under the preceding sentence of the maximum number that may be recommended with a view to having on the reserve active-status list a sufficient number of officers in each grade and competitive category to meet the needs of the armed force concerned for officers on that list. In order to make that determination, the Secretary shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, (3) the number of officers authorized by the Secretary of the military department concerned to serve on the reserve active-status list in the grade and competitive category under consideration, and (4) any statutory limitation on the number of officers in any grade or category (or combination thereof) authorized to be on the reserve active-status list.

"(b) BELOW-THE-ZONE SELECTIONS.—(1) The Secretary of the military department concerned may, when the needs of the armed force concerned require, authorize the consideration of officers in the grade of captain, major, or lieutenant colonel on the reserve active-status list of the Army or Air Force, in a grade above first lieutenant on the reserve active-status list of the Marine Corps, or in a grade above lieutenant (junior grade) on the reserve active-status list of the Navy, for promotion to the next higher grade from below the promotion zone.

"(2) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone in each competitive category to be considered. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the armed force concerned so require. If the maximum number determined under this paragraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

"(3) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under subsection (a).

"§14308. Promotions: how made

"(a) PROMOTION LIST.—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list.

"(b) PROMOTION; HOW MADE; ORDER.—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

"(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

"(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

"(c) DATE OF RANK.—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

"(2) Except as specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

"(d) OFFICERS WITH RUNNING MATES.—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

"(e) ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES.—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

"(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

"(2) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

"(f) EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.—The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

"(g) ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.—A reserve officer of the Army who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army. A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade.

"§14309. Acceptance of promotion; oath of office

"(a) ACCEPTANCE.—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

"(b) OATH.—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this chapter.

"§14310. Removal of officers from a list of officers recommended for promotion

"(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

"(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a reserve grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

"(c) CONTINUED ELIGIBILITY FOR PROMOTION.—An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the military department concerned may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list, as the officer would have had if the officer's name had not been removed from the list.

"§14311. Delay of promotion: involuntary

"(a) DELAY DURING INVESTIGATIONS AND PROCEEDINGS.—(1) Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may be delayed if any of the following applies before the date on which the appointment would otherwise be made:

"(A) Sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and the charges have not been disposed of.

"(B) An investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer.

"(C) A board of officers has been convened under section 14903 of this title to review the record of the officer.

"(D) A criminal proceeding in a Federal or State court of competent jurisdiction is pending against the officer.

"(2) If disciplinary action is not taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not separated by the Secretary of the military department concerned as the result of having been required to show cause for retention, or if the officer is acquitted of the charges, as the case may be, then (unless action to delay the officer's appointment to the higher grade has been taken under subsection (b)) the officer shall be retained on the promotion list, list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(b) DELAY FOR LACK OF QUALIFICATIONS.—Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may also be delayed if there is cause to believe that the officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade to which selected. If the Secretary concerned later determines that the officer is qualified for promotion to the higher grade, the officer shall be retained on the promotion list, the list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade, and shall, upon promotion to that grade, have the same date or rank, the same effective date for pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(c) NOTICE TO OFFICER.—(1) The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) unless the officer is given written notice of the grounds for the delay. The preceding sentence does not apply if it is impracticable to give the officer written notice before the date on which the appointment to the higher grade would otherwise take effect, but in such a case the written notice shall be given as soon as practicable.

"(2) An officer whose promotion is delayed under subsection (a) or (b) shall be given an opportunity to make a written statement to the Secretary of the military department concerned in response to the action taken. The Secretary shall give consideration to any such statement.

"(d) MAXIMUM LENGTH OF DELAY IN PROMOTION.—The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) for more than six months after the date on which the officer would otherwise have been promoted unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against the officer in a Federal or State court of competent jurisdiction or more than 90 days after final action has been taken in any court-martial case against the officer. Except for court action, a promotion may not be delayed more than 18 months after the date on which the officer would otherwise have been promoted.

"(e) DELAY BECAUSE OF LIMITATIONS ON OFFICER STRENGTH IN GRADE OR DUTIES TO WHICH ASSIGNED.—(1) Under regulations prescribed by the Secretary of Defense, the promotion of a reserve officer on the reserve active-status list who is serving on active duty, or who is on full-time National Guard duty for administration of the reserves or the National Guard, to a grade to which the strength limitations of section 12011 of this title apply shall be delayed if necessary to ensure compliance with those strength limitations. The delay shall expire when the Secretary determines that the delay is no longer required to ensure such compliance.

"(2) The promotion of an officer described in paragraph (1) shall also be delayed while the officer is on duty described in that paragraph unless the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, determines that the duty assignment of the officer requires a higher grade than the grade currently held by the officer.

"(3) The date of rank and position on the reserve active-status list of a reserve officer whose promotion to or Federal recognition in the next higher grade was delayed under paragraph (1) or (2) solely as the result of the limitations imposed under the regulations prescribed by the Secretary of Defense or contained in section 12011 of this title shall be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

"(4) If an officer whose promotion is delayed under paragraph (1) or (2) completes the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may request release from active duty or full-time National Guard duty. If the request is granted, the officer's promotion shall be effective upon the officer's release from such duty. The date of rank and position on the reserve active-status list of the officer shall be the date the officer would have been promoted to or recognized in the higher grade had the limitations imposed under regulations prescribed by the Secretary of Defense contained in section 12011 of this title not existed. If an officer whose promotion is delayed under paragraph (1) or (2) has not completed the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may be retained on active duty or on full-time National Guard duty in the grade in which the officer was serving before the officer's being found qualified for Federal recognition or the officer's selection for the promotion until the officer completes that required period of duty.

"§14312. Delay of promotion: voluntary

"(a) AUTHORITY FOR VOLUNTARY DELAYS.—(1) The Secretary of the military department concerned may, by regulation, permit delays of a promotion of an officer who is recommended for promotion by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title at the request of the officer concerned. Such delays, in the case of any promotion, may extend for any period not to exceed three years from the date on which the officer would otherwise be promoted.

"(2) Regulations under this section shall provide that—

"(A) a request for such a delay of promotion must be submitted by the officer concerned before the delay may be approved; and

"(B) denial of such a request shall not be considered to be a failure of selection for promotion unless the officer declines to accept a promotion under circumstances set forth in subsection (c).

"(b) EFFECT OF APPROVAL OF REQUEST.—If a request for delay of a promotion under subsection (a) is approved, the officer's name shall remain on the promotion list during the authorized period of delay (unless removed under any other provision of law). Upon the end of the period of the authorized delay, or at any time during such period, the officer may accept the promotion, which shall be effective on the date of acceptance. Such an acceptance of a promotion shall be made in accordance with regulations prescribed under this section.

"(c) EFFECT OF DECLINING A PROMOTION.—An officer's name shall be removed from the promotion list and, if the officer is serving in a grade below colonel or, in the case of the Navy, captain, the officer shall be considered to have failed of selection for promotion if any of the following applies:

"(1) The Secretary concerned has not authorized voluntary delays of promotion under subsection (a) to the grade concerned and the officer declines to accept an appointment to a higher grade.

"(2) The Secretary concerned has authorized voluntary delays of promotion under subsection (a), but has denied the request of the officer for a delay of promotion and the officer then declines to accept an appointment to a higher grade.

"(3) The Secretary concerned has approved the request of an officer for a delay of promotion and, upon the end of the period of delay authorized in accordance with regulations prescribed under subsection (a), the officer then declines to accept an appointment to a higher grade.

"§14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half)

"(a) AUTHORITY.—The President may vacate the appointment of a reserve officer to the grade of brigadier general or rear admiral (lower half) if the period of time during which the officer has served in that grade after promotion to that grade is less than 18 months.

"(b) EFFECT OF PROMOTION BEING VACATED.—Except as provided in subsection (c), an officer whose promotion to the grade of brigadier general is vacated under this section holds the grade of colonel as a reserve of the armed force of which the officer is a member. An officer whose promotion to the grade of rear admiral (lower half) is vacated under this section holds the grade of captain in the Naval Reserve. Upon assuming the lower grade, the officer shall have the same position on the reserve active-status list as the officer would have had if the officer had not served in the higher grade.

"(c) SPECIAL RULE FOR OFFICERS SERVING AS ADJUTANT GENERAL.—In the case of an officer serving as an adjutant general or assistant adjutant general whose promotion to the grade of brigadier general is vacated under this section, the officer then holds the reserve grade held by that officer immediately before the officer's appointment as adjutant general or assistant adjutant general.

"§14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general

"(a) GENERAL OFFICERS.—Within 30 days after a reserve officer of the Army or the Air Force on the reserve active-status list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary concerned shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

"(1) Transfer the officer in grade to the Retired Reserve, if the officer is qualified and applies for the transfer.

"(2) Transfer the officer in grade to the inactive status list of the Standby Reserve, if the officer is qualified.

"(3) Discharge the officer from the officer's reserve appointment and, if the officer is qualified and applies therefor, appoint the officer in the reserve grade held by the officer as a reserve officer before the officer's appointment in a general officer grade.

"(4) Discharge the officer from the officer's reserve appointment.

"(b) ADJUTANTS GENERAL.—If a reserve officer who is federally recognized in the Army National Guard or the Air National Guard solely because of the officer's appointment as adjutant general or assistant adjutant general of a State ceases to occupy that position, the Secretary concerned, not later than 30 days after the date on which the officer ceases to occupy that position, shall—

"(1) withdraw that officer's Federal recognition; and

"(2) require that the officer—

"(A) be transferred in grade to the Retired Reserve, if the officer is qualified and applies for the transfer;

"(B) be discharged from the officer's reserve appointment and appointed in the reserve grade held by the officer as a reserve officer of the Air Force immediately before the appointment of that officer as adjutant general or assistant adjutant general, if the officer is qualified and applies for that appointment; or

"(C) be discharged from the officer's reserve appointment.

"(c) CREDIT FOR SERVICE IN GRADE.—An officer who is appointed under subsection (a)(3) or (b)(2)(B) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

"§14315. Position vacancy promotions: Army and Air Force officers

"(a) OFFICERS ELIGIBLE FOR CONSIDERATION FOR VACANCY PROMOTIONS BELOW BRIGADIER GENERAL.—A reserve officer of the Army who is in the Army Reserve, or a Reserve officer of the Air Force who is in the Air Force Reserve, who is on the reserve active-status list in the grade of first lieutenant, captain, major, or lieutenant colonel is eligible for consideration for promotion to the next higher grade under this section if each of the following applies:

"(1) The officer is occupying or, as determined by the Secretary concerned, is available to occupy a position in the same competitive category as the officer and for which a grade higher than the one held by that officer is authorized.

"(2) The officer is fully qualified to meet all requirements for the position as established by the Secretary of the military department concerned.

"(3) The officer has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade.

"(b) CONSIDERATION FOR VACANCY PROMOTION TO BRIGADIER GENERAL OR MAJOR GENERAL.—(1) A reserve officer of the Army who is in the Army Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade in a unit of the Army Reserve organized to serve as a unit, (B) has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade, and (C) meets the standards for consideration prescribed by the Secretary of the Army.

"(2) A reserve officer of the Air Force who is in the Air Force Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade, and (B) meets the standards for consideration prescribed by the Secretary of the Air Force.

"(c) VACANCY PROMOTION BOARDS.—Consideration for promotion under this section shall be by a vacancy promotion board convened under section 14101(a) of this title.

"(d) EFFECT OF NONSELECTION.—An officer who is considered for promotion under this section and is not selected shall not be considered to have failed of selection for promotion.

"(e) SPECIAL RULE FOR OFFICERS FAILED OF SELECTION.—A reserve officer of the Army or the Air Force who is considered as failed of selection for promotion under section 14501 of this title to a grade may be considered for promotion under this section or, if selected, promoted to that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill the vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"§14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion

"(a) OPPORTUNITY FOR PROMOTION TO FILL A VACANCY IN THE GUARD.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States is recommended by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title for promotion to the next higher grade, an opportunity shall be given to the appropriate authority of the State to promote that officer to fill a vacancy in the Army National Guard or the Air National Guard of that jurisdiction.

"(b) AUTOMATIC FEDERAL RECOGNITION.—An officer of the Army National Guard of the United States or the Air National Guard of the United States who is on a promotion list for promotion to the next higher grade as a result of selection for promotion as described in subsection (a) and who before the date of promotion is appointed in that higher grade to fill a vacancy in the Army National Guard or Air National Guard shall—

"(1) be extended Federal recognition in that grade, without the examination prescribed in section 307 of title 32; and

"(2) subject to section 14311(e) of this title, be promoted to that reserve grade effective on the date of the officer's appointment in that grade in the Army National Guard or Air National Guard.

"(c) NATIONAL GUARD OFFICERS FAILED OF SELECTION.—An officer who is considered as failed of selection for promotion under section 14501 of this title to a grade may be extended Federal recognition in that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill a vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"(d) TRANSFER TO ARMY RESERVE OR AIR FORCE RESERVE.—If, on the date on which an officer of the Army National Guard of the United States or of the Air National Guard of the United States who is on a promotion list as described in subsection (a) is to be promoted, the officer has not been promoted to fill a vacancy in the higher grade in the Army National Guard or the Air National Guard, the officer's Federal recognition in the officer's reserve grade shall be withdrawn and the officer shall be promoted and transferred to the Army Reserve or the Air Force Reserve as appropriate.

"§14317. Officers in transition to and from the active-status list or active-duty list

"(a) EFFECT OF TRANSFER TO INACTIVE STATUS OR RETIRED STATUS.—If a reserve officer on the reserve active-status list is transferred to an inactive status or to a retired status after having been recommended for promotion to a higher grade under this chapter or chapter 36 of this title, or after having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer—

"(1) shall be treated as if the officer had not been considered and recommended for promotion by the selection board or examined and been found qualified for Federal recognition; and

"(2) may not be placed on a promotion list or promoted to the higher grade after returning to an active status,

unless the officer is again recommended for promotion by a selection board convened under chapter 36 of this title or section 14101(a) or 14502 of this title or examined for Federal recognition under title 32.

"(b) EFFECT OF PLACEMENT ON ACTIVE-DUTY LIST.—A reserve officer who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under

section 14101(a) or a special selection board convened under section 14502 of this title and who before being promoted is placed on the active-duty list of the same armed force and placed in the same competitive category shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list for officers on the active-duty list established under chapter 36 of this title.

"(c) OFFICERS ON A PROMOTION LIST REMOVED FROM ACTIVE-DUTY LIST.—An officer who is on the active-duty list and is on a promotion list as the result of selection for promotion by a selection board convened under chapter 36 of this title and who before being promoted is removed from the active-duty list and placed on the reserve active-status list of the same armed force and in the same competitive category (including a regular officer who on removal from the active-duty list is appointed as a reserve officer and placed on the reserve active-status list) shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list established under this chapter.

"(d) OFFICERS SELECTED FOR POSITION VACANCIES.—If a reserve officer is ordered to active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only) after being recommended for promotion under section 14314 of this title to fill a position vacancy or examined for Federal recognition under title 32, and before being promoted to fill that vacancy, the officer shall not be promoted while serving such active duty or full-time National Guard duty unless the officer is ordered to active duty as a member of the unit in which the vacancy exists when that unit is ordered to active duty. If, under this subsection, the name of an officer is removed from a list of officers recommended for promotion, the officer shall be treated as if the officer had not been considered for promotion or examined for Federal recognition.

"(e) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title for not more than two years from the date the officer is ordered to active duty unless the President suspends the operation of this section under the provisions of section 10213 or 644 of this title.

"CHAPTER 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

"Sec.
"14501. Failure of selection for promotion.
"14502. Special selection boards: correction of errors.
"14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade).
"14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy.
"14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy.
"14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and lieutenant commanders of the Navy.
"14507. Removal from the active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy.
"14508. Removal from the reserve active-status list for years of service: reserve general and flag officers.
"14509. Separation at age 60: reserve officers below brigadier general or rear admiral (lower half).
"14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half).
"14511. Separation at age 62: major generals and rear admirals.
"14512. Separation at age 64: officers holding certain offices.
"14513. Separation for failure of selection of promotion.
"14514. Discharge or retirement for years of service or after selection for early removal.
"14515. Discharge or retirement for age.
"14516. Separation to be considered involuntary.
"14517. Entitlement of officers discharged under this chapter to separation pay.

"§14501. Failure of selection for promotion

"(a) An officer on the reserve active-status list in a grade below the grade of colonel or, in the case of an officer in the Naval Reserve, captain who is in or above the promotion zone established for that officer's grade and competitive category and who (1) is considered but not recommended for promotion (other than by a vacancy promotion board), or (2) declines to accept a promotion for which selected (other than by a vacancy promotion board), shall be considered to have failed of selection for promotion.

"(b) OFFICERS TWICE FAILED OF SELECTION.—An officer shall be considered for all purposes to have twice failed of selection for promotion if any of the following applies:

"(1) The officer is considered but not recommended for promotion a second time by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) of this title.

"(2) The officer declines to accept a promotion for which recommended by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) or 14502(b) of this title after previously failing of selection or after the officer's name was removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation for promotion by an earlier selection board described in subsection (a).

"(3) The officer's name has been removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation by a mandatory promotion board convened under section 14101(a) or by a special selection board convened under section 14502(a) or 14502(b) of this title and—

"(A) the officer is not recommended for promotion by the next mandatory promotion board convened under section 14101(a) or special selection board convened under section 14502(a) of this title for that officer's grade and competitive category; or

"(B) the officer's name is again removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title.

"§14502. Special selection boards: correction of errors

"(a) OFFICERS NOT CONSIDERED BECAUSE OF ADMINISTRATIVE ERROR.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion from in or above the promotion zone by a mandatory promotion board convened under section 14101(a) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

"(2) A special selection board convened under this subsection shall consider the record of the officer or former officer as that record would have appeared to the promotion board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

"(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—(1) In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a selection board but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

"(A) the action of the selection board that considered the officer or former officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the selection board did not have before it for its consideration material information.

"(2) A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 14102 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

"(3) Such board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the selection board that considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(4) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in the grade of lieutenant colonel or commander or below whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for pro-

motion by the board which did consider the officer but incurs no additional failure of selection for promotion from the action of the special selection board.

"(c) REPORT.—Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has considered carefully the record of each officer whose name was referred to it.

"(d) APPLICABLE PROVISIONS.—The provisions of sections 14104, 14109, 14110, and 14111 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 14101(a) of this title.

"(e) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—(1) An officer whose name is placed on a promotion list as a result of recommendation for promotion by a special selection board convened under this section, shall, as soon as practicable, be appointed to the next higher grade in accordance with the law and policies which would have been applicable had he been recommended for promotion by the board which should have considered or which did consider him.

"(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

"(3) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary concerned may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

"(f) TIME LIMITS FOR CONSIDERATION.—The Secretary of Defense may prescribe by regulation the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer or former officer and time limits within which an officer or former officer must make such application in order to be considered by a special selection board under this section.

"(g) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have power or jurisdiction—

"(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under chapter 1403 of this title until—

"(A) the claim has been referred to a special selection board by the Secretary concerned and acted upon by that board; or

"(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

"(2) to grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim.

"(h) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

"(2) If a court finds that the action of a special selection board which considers an officer or former officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary concerned, who shall provide the officer or former officer reconsideration by a new special selection board.

"(i) DESIGNATION OF BOARDS.—The Secretary of the military department concerned may designate a promotion board convened under section 14101(a) of this title as a special selection board convened under this section. A board so designated may function in both capacities.

"§14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade)

"(a) AUTHORIZED DISCHARGES.—The Secretary of the military department concerned may discharge any reserve officer who—

"(1) has less than five years of service in an active status as a commissioned officer; or

"(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade).

"(b) TIME FOR DISCHARGE.—(1) An officer described in subsection (a)(2)—

"(A) may be discharged at any time after being found not qualified for promotion; and

"(B) if not sooner discharged, shall be discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

"(2) Paragraph (1) shall not apply if the officer is sooner promoted.

"(c) REGULATIONS.—Discharges under this section shall be made under regulations prescribed by the Secretary of Defense and may be made without regard to section 12645 of this title.

"§14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

"(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on which the President approves the report of the selection board which resulted in the second failure, or (2) as provided in section 12646 or 12686 of this title.

"§14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

"Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"§14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force and Marine Corps and reserve lieutenant commanders of the Navy

"Unless retained as provided in section 12646, 12686, 14701, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the first day of the month after the month in which the officer completes 20 years of commissioned service.

"§14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

"(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

"(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

"§14508. Removal from the reserve active-status list for years of service: reserve general and flag officers

"(a) THIRTY YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve officer of the Navy in the grade of rear admiral (lower half) who has not been recommended for promotion to rear admiral shall, 30 days after completion of 30 years of commissioned service or on the fifth anniversary of the date of the of-

ficer's appointment in the grade of brigadier general or rear admiral (lower half), whichever is later, be separated in accordance with section 14514 of this title.

"(b) THIRTY-FIVE YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general, and each reserve officer of the Navy in the grade of rear admiral, shall, 30 days after completion of 35 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of major general or rear admiral, whichever is later, be separated in accordance with section 14514 of this title.

"(c) RETENTION OF BRIGADIER GENERALS.—A reserve officer of the Army or Air Force in the grade of brigadier general who would otherwise be removed from an active status under this subsection (a) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 60 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(d) RETENTION OF MAJOR GENERALS.—A reserve officer of the Army or Air Force in the grade of major general who would otherwise be removed from an active status under this subsection (b) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 62 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(e) EXCEPTION FOR STATE ADJUTANTS GENERAL AND ASSISTANT ADJUTANTS GENERAL.—This section does not apply to an officer who is the adjutant general or assistant adjutant general of a State.

"§14509. Separation at age 60: reserve officers in grades below brigadier general or rear admiral (lower half)

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps in a grade below brigadier general or rear admiral (lower half) who has not been recommended for promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which that officer becomes 60 years of age, be separated in accordance with section 14515 of this title.

"§14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half)

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve rear admiral (lower half) of the Navy who has not been recommended for promotion to the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 60 years of age.

"§14511. Separation at age 62: major generals and rear admirals

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general and each reserve officer of the Navy in the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 62 years of age.

"§14512. Separation at age 64: officers holding certain offices

"(a) ARMY AND AIR FORCE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, a reserve officer of the Army or Air Force who is Chief of the National Guard Bureau, an adjutant general, or if a reserve officer of the Army, commanding general of the troops of a State, shall on the last day of the month in which the officer becomes 64 years of age, be separated in accordance with section 14515 of this title.

"(b) NAVY AND MARINE CORPS.—The Secretary of the Navy may defer the retirement under section 14510 or 14511 of a reserve officer of the Navy in a grade above captain or a reserve officer of the Marine Corps in a grade above colonel and retain the officer in an active status until the officer becomes 64 years of age. Not more than 10 officers may be so deferred at any one time, distributed between the Naval Reserve and the Marine Corps Reserve as the Secretary determines.

"§14513. Separation for failure of selection of promotion

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and whose removal from an active status or from a reserve active-status list is required by section 14504, 14505, or 14506 of this title shall (unless the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the date specified in those sections—

"(1) be transferred to an inactive status if the Secretary concerned determines that the officer has skills which may be required to meet the mobilization needs of the officer's armed force;

"(2) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(3) if the officer is not transferred to an inactive status or to the Retired Reserve, be discharged from the officer's reserve appointment.

"§14514. Discharge or retirement for years of service or after selection for early removal

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and who is required to be removed from an active status or from a reserve active-status list, as the case may be, under section 14507, 14508, 14704, or 14705 of this title (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law), in accordance with those sections, shall—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for such transfer, be discharged from the officer's reserve appointment.

"§14515. Discharge or retirement for age

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status or on an inactive status list and who reaches the maximum age specified in section 14509, 14510, 14511, or 14512 of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for transfer to the Retired Reserve, be discharged from the officer's reserve appointment.

"§14516. Separation to be considered involuntary

"The separation of an officer pursuant to section 14513, 14514, or 14515 of this title shall be considered to be an involuntary separation for purposes of any other provision of law.

"§14517. Entitlement of officers discharged under this chapter to separation pay

"An officer who is discharged under section 14513, 14514, or 14515 of this title is entitled to separation pay under section 1174 of this title if otherwise eligible under that section.

"CHAPTER 1409—CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST AND SELECTIVE EARLY REMOVAL

"Sec.

"14701. Selection of officers for continuation on the reserve active-status list.

"14702. Retention on reserve active-status list of certain officers until age 60.

"14703. Authority to retain chaplains and officers in medical specialties until specified age.

"14704. Selective early removal from the reserve active-status list.

"14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps.

"14706. Computation of total years of service.

"§14701. Selection of officers for continuation on the reserve active-status list

"(a) CONSIDERATION FOR CONTINUATION.—(1) Upon application, a reserve officer of the Army, Navy, Air Force, or Marine Corps who is required to be removed from the reserve active-status list under section 14505, 14506, or 14507 of this title may, subject to the needs of the service and to section 14509 of this title, be considered for continuation on the reserve active-status list by a selection board convened under section 14101(b) of this title.

"(2) A reserve officer who holds the grade of captain in the Army, Air Force, or Marine Corps or the grade of lieutenant in the Navy and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 20 years of commissioned service.

"(3) A reserve officer who holds the grade of major or lieutenant commander and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 24 years of commissioned service.

"(4) A reserve officer who holds the grade of lieutenant colonel or commander and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 33 years of commissioned service.

"(5) A reserve officer who holds the grade of colonel in the Army, Air Force, or Marine Corps or the grade of captain in the Navy and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 35 years of commissioned service.

"(6) An officer who is selected for continuation on the reserve active-status list as a result of the convening of a selection board under section 14101(b) of this title but who declines to continue on that list shall be separated in accordance with section 14513 or 14514 of this title, as the case may be.

"(7) Each officer who is continued on the reserve active-status list under this section, who is

not subsequently promoted or continued on the active-status list, and whose name is not on a list of officers recommended for promotion to the next higher grade shall (unless sooner separated under another provision of law) be separated in accordance with section 14513 or 14514 of this title, as appropriate, upon the expiration of the period for which the officer was continued on the reserve active-status list.

"(b) APPROVAL OF SECRETARY CONCERNED.—Continuation of an officer on the reserve active-status list under this section pursuant to action of a continuation board convened under section 14101(b) of this title is subject to the approval of the Secretary of the military department concerned.

"(c) INSTRUCTIONS TO CONTINUATION BOARDS.—A continuation board convened under section 14101(b) of this title to consider officers for continuation on the reserve active-status list under this section shall act in accordance with the instructions and directions provided to the board by the Secretary of the military department concerned.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

"§14702. Retention on reserve active-status list of certain officers until age 60

"(a) RETENTION.—Notwithstanding the provisions of section 14506 or 14507 of this title, the Secretary of the military department concerned may, with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, or colonel who is—

"(1) an officer of the Army National Guard of the United States and assigned to a headquarters or headquarters detachment of a State; or

"(2) a reserve officer of the Army or Air Force who, as a condition of continued employment as a National Guard or Reserve technician is required by the Secretary concerned to maintain membership in a Selected Reserve unit or organization.

"(b) SEPARATION AT AGE 60.—An officer may be retained under this section only so long as the officer continues to meet the conditions of subsection (a)(1) or (a)(2). An officer may not be retained under this section after the last day of the month in which the officer becomes 60 years of age.

"§14703. Authority to retain chaplains and officers in medical specialties until specified age

"(a) RETENTION.—Notwithstanding any provision of chapter 1407 of this title and except for officers referred to in sections 14503, 14504, 14505, and 14506 of this title and under regulations prescribed by the Secretary of Defense—

"(1) the Secretary of the Army may, with the officer's consent, retain in an active status any reserve officer assigned to the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Services Corps (if the officer has been designated as allied health officer or biomedical sciences officer in that Corps), the Optometry Section of the Medical Services Corps, the Chaplains, the Army Nurse Corps, or the Army Medical Specialists Corps;

"(2) the Secretary of the Navy may, with the officer's consent, retain in an active status any reserve officer appointed in the Medical Corps, Dental Corps, Nurse Corps, or Chaplain Corps or appointed in the Medical Services Corps and designated to perform as a veterinarian, optometrist, podiatrist, allied health officer, or biomedical sciences officer; and

"(3) the Secretary of the Air Force may, with the officer's consent, retain in an active status any reserve officer who is designated as a medical officer, dental officer, veterinary officer, Air Force nurse, or chaplain or who is designated as a biomedical sciences officer and is qualified for service as a veterinarian, optometrist, or podiatrist.

"(b) SEPARATION AT SPECIFIED AGE.—An officer may not be retained in active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of a reserve officer of the Army in the Chaplains or a reserve officer of the Air Force designated as a chaplain, 60 years of age).

"§14704. Selective early removal from the reserve active-status list

"(a) BOARDS TO RECOMMEND OFFICERS FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—Whenever the Secretary of the military department concerned determines that there are in any reserve component under the jurisdiction of the Secretary too many officers in any grade and competitive category who have at least 30 years of service computed under section 14706 of this title or at least 20 years of service computed under section 12732 of this title, the Secretary may convene a selection board under section 14101(b) of this title to consider all officers on that list who are in that grade and competitive category, and who have that amount of service, for the purpose of recommending officers by name for removal from the reserve active-status list, in the number specified by the Secretary by each grade and competitive category.

"(b) SEPARATION OF OFFICERS SELECTED.—In the case of an officer recommended for separation in the report of a board under subsection (a), the Secretary may separate the officer in accordance with section 14514 of this title.

"(c) REGULATIONS.—The Secretary of the military department concerned shall prescribe regulations for the administration of this section.

"§14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

"(a) AUTHORITY TO CONSIDER.—An officer in the Naval Reserve in an active status serving in the grade of rear admiral (lower half) or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement whenever the Secretary of the Navy determines that such action is necessary.

"(b) BOARDS.—If the Secretary of the Navy determines that consideration for early retirement under this section is necessary, the Secretary shall convene a board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

"(c) SEPARATION UNDER SECTION 14514.—An officer selected for early retirement under this section shall be separated in accordance with section 14514 of this title.

"§14706. Computation of total years of service

"For the purpose of this chapter and chapter 1407 of this title, a reserve officer's years of service include all service, other than constructive service, of the officer as a commissioned officer of any uniformed service (other than service as a warrant officer).

"CHAPTER 1411—ADDITIONAL PROVISIONS RELATING TO INVOLUNTARY SEPARATION

"Sec.

"14901. Separation of chaplains for loss of professional qualifications.

"14902. Separation for substandard performance and for certain other reasons.

"14903. Boards of inquiry.

"14904. Rights and procedures.

"14905. Officers considered for removal: retirement or discharge.

"14906. Officers eligible to serve on boards.

"14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave.

"§14901. Separation of chaplains for loss of professional qualifications

"(a) SEPARATION.—Under regulations prescribed by the Secretary of Defense, an officer on the reserve active-status list who is appointed or designated as a chaplain may, if the officer fails to maintain the qualifications needed to perform the professional function of a chaplain, be discharged. The authority under the preceding sentence applies without regard to the provisions of section 12645 of this title.

"(b) EFFECT OF SEPARATION.—If an officer separated under this section is eligible for retirement, the officer may be retired. If the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the officer may be transferred to the Retired Reserve.

"§14902. Separation for substandard performance and for certain other reasons

"(a) SUBSTANDARD PERFORMANCE OF DUTY.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because that officer's performance has fallen below standards prescribed by the Secretary concerned, to show cause for retention in an active status.

"(b) MISCONDUCT, ETC.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because of misconduct, because of moral or professional dereliction, or because the officer's retention is not clearly consistent with the interests of national security, to show cause for retention in an active status.

"(c) REGULATIONS.—The authority of the Secretary of a military department under this section shall be carried out subject to such limitations as the Secretary of Defense may prescribe by regulation.

"§14903. Boards of inquiry

"(a) CONVENING OF BOARDS.—The Secretary of the military department concerned shall convene a board of inquiry at such time and place as the Secretary may prescribe to receive evidence and review the case of any officer who has been required to show cause for retention in an active status under section 14902 of this title. Each board of inquiry shall be composed of not less than three officers who have the qualifications prescribed in section 14906 of this title.

"(b) RIGHT TO FAIR HEARING.—A board of inquiry shall give a fair and impartial hearing to each officer required under section 14902 of this chapter to show cause for retention in an active status.

"(c) RECOMMENDATIONS TO SECRETARY.—If a board of inquiry determines that the officer has failed to establish that the officer should be retained in an active status, the board shall recommend to the Secretary concerned that the officer not be retained in an active status.

"(d) ACTION BY SECRETARY.— After review of the recommendation of the board of inquiry, the Secretary may—

"(1) remove the officer from an active status; or

"(2) determine that the case be closed.

"(e) ACTION IN CASES WHERE CAUSE FOR RETENTION IS ESTABLISHED.—(1) If a board of inquiry determines that an officer has established that the officer should be retained in an active status or if the Secretary determines that the case be closed, the officer's case is closed.

"(2) An officer who is required to show cause for retention under section 14902(a) of this title and whose case is closed under paragraph (1) may not again be required to show cause for retention under such subsection during the one-year period beginning on the date of that determination.

"(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under section 14902(b) of this title and whose case is closed under paragraph (1) may again be required to show cause for retention at any time.

"(B) An officer who has been required to show cause for retention under section 14902(b) of this title and who is thereafter retained in an active status may not again be required to show cause for retention under such section solely because of conduct which was the subject of the previous proceeding, unless the recommendations of the board of inquiry that considered the officer's case are determined to have been obtained by fraud or collusion.

"§14904. Rights and procedures

"(a) PROCEDURAL RIGHTS.—Under regulations prescribed by the Secretary of Defense, an officer required under section 14902 of this title to show cause for retention in an active status—

"(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a board of inquiry, of the reasons for which the officer is being required to show cause for retention in an active status;

"(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare for showing of cause for retention in an active status;

"(3) shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

"(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

"(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

"§14905. Officer considered for removal: retirement or discharge

"(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At any time during proceedings under this chapter with respect to the removal of an officer from an active status, the Secretary of the military department concerned may grant a request by the officer—

"(1) for voluntary retirement, if the officer is qualified for retirement;

"(2) for transfer to the Retired Reserve if the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title and is otherwise eligible for transfer to the Retired Reserve; or

"(3) for discharge in accordance with subsection (b)(3).

"(b) REQUIRED RETIREMENT OR DISCHARGE.—An officer removed from an active status under section 14903 of this title shall—

"(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under that provision;

"(2) if eligible for transfer to the Retired Reserve and has completed the years of service required for retired pay under chapter 1223 of this title, be transferred to the Retired Reserve; and

"(3) if ineligible for retirement or transfer to the Retired Reserve under paragraph (1) or (2) on the date of such removal—

"(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 14902 of this title; or

"(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 14902 of this title.

"(c) SEPARATION PAY.—An officer who is discharged under subsection (b)(3) is entitled, if eligible therefor, to separation pay under section 1174(c) of this title.

"§14906. Officers eligible to serve on boards

"(a) COMPOSITION OF BOARDS.—(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

"(2) An officer may not serve on a board under this chapter unless the officer holds a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by the board.

"(b) LIMITATION.—A person may not be a member of more than one board convened under this chapter to consider the same officer.

"§14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave

"(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNITION.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States has been absent without leave for three months, the Secretary of the Army or the Secretary of the Air Force, as appropriate, may—

"(1) terminate the reserve appointment of the officer; and

"(2) withdraw the officer's Federal recognition as an officer of the National Guard.

"(b) DISCHARGE FROM RESERVE APPOINTMENT.—An officer of the Army National Guard of the United States or the Air National Guard of the United States whose Federal recognition as an officer of the National Guard is withdrawn under section 323(b) of title 32 shall be discharged from the officer's appointment as a reserve officer of the Army or the Air Force, as the case may be.".

PART B—CONFORMING AMENDMENTS

SEC. 111. DEFINITION OF RESERVE ACTIVE-STATUS LIST.

Section 101 is amended by adding at the end the following new paragraph:

"(48) The term 'reserve active-status list' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 14002 of this title) that contains the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.".

SEC. 112. AUTHORITY TO SUSPEND OFFICER PERSONNEL LAWS DURING WAR OR NATIONAL EMERGENCY.

(a) AUTHORITY.—Section 123 is amended to read as follows:

"§123. Authority to suspend officer personnel laws during war or national emergency

"In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

"(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.".

(b) CONFORMING REPEAL.—Section 644 is repealed.

SEC. 113. ACTIVE-DUTY LIST PROMOTION BOARDS TO HAVE AUTHORITY TO RECOMMEND THAT RESERVE OFFICERS CONSIDERED FOR PROMOTION BE REQUIRED TO SHOW CAUSE FOR RETENTION ON ACTIVE DUTY.

Section 617(b) is amended—

(1) by inserting "or reserve" after "any regular"; and

(2) by inserting "or 1411" after "chapter 60".

SEC. 114. APPLICABILITY OF CHAPTER 36 TO RESERVE OFFICERS DURING WAR OR NATIONAL EMERGENCY.

Section 641 is amended—

(1) by inserting "(a)" before "Officers in the following"; and

(2) by adding at the end the following:

"(b) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is ordered to active duty (whether voluntarily or involuntarily) during a war or national emergency and who would otherwise be placed on the active-duty list may be excluded from that list as determined by the Secretary concerned. Exclusion of an officer from the active-duty list as the result of action by the Secretary concerned under the preceding sentence shall expire not later than 24 months after the date on which the officer enters active duty under an order to active duty covered by that sentence.".

SEC. 115. GRADE IN WHICH RESERVE OFFICERS ARE ORDERED TO ACTIVE DUTY.

Section 689 is amended—

(1) by inserting "or full-time National Guard duty" after "active duty" the first two places it appears; and

(2) by inserting "and placed on the active-duty list" after "active duty" the third place it appears.

SEC. 116. DATE OF RANK.

Section 741(d)(3) is amended—

(1) by inserting "or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list" after "warrant officer (W-5)";

(2) by inserting "or reserve active-status list" after "active-duty list" the second place it appears; and

(3) by adding at the end: "The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer's last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.".

SEC. 117. DISCHARGE BEFORE COMPLETION OF REQUIRED SERVICE IN CASE OF OFFICERS HAVING TWICE FAILED OF SELECTION FOR CAPTAIN OR NAVY LIEUTENANT.

Section 1005(b) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(3) an officer on the active-duty list or reserve active-status list who has failed of selection for promotion for the second time to the grade of captain, in the case of an officer of the Army, Air Force, or Marine Corps, or to the grade of lieutenant, in the case of an officer of the Navy; or

"(4) an officer whose discharge or transfer from an active status is required by law.".

SEC. 118. CONFORMING AMENDMENTS RELATING TO NAVY AND MARINE CORPS OFFICERS.

Section 6389 is amended—

(1) in subsection (a)—

(A) by inserting "while on the active-duty list" after "to the next higher grade"; and

(B) by striking out the period at the end and inserting in lieu thereof "or released from active duty and placed on the reserve active-status list.";

(2) in subsection (b), by striking out "or (f)";

(3) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking out "lieutenant commander or above" both places it appears and inserting in lieu thereof "lieutenant commander or commander";

(C) by striking out "major or above" both places it appears and inserting in lieu thereof "major or lieutenant colonel";

(D) by inserting "while on the active-duty list" after "to the next higher grade" in the first sentence; and

(E) in the table—

(i) by striking out the line relating to the grades of captain in the Navy and colonel in the Marine Corps; and

(ii) by striking out "26 years" and inserting in lieu thereof "28 years";

(F) by designating the sentence after the table as paragraph (2) and in that sentence striking out "the first sentence of this subsection" and inserting in lieu thereof "the first sentence of paragraph (1)";

(G) by designating the next sentence as paragraph (3) and in that sentence striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(H) by designating the last sentence as paragraph (4) and in that sentence—

(i) striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(ii) striking out "captain or"; and

(4) by striking out subsections (e), (f), and (g).

SEC. 119. REPEAL OF RESERVE OFFICER PERSONNEL POLICY LAWS.

(a) ARMY PROVISIONS.—

(1) Chapter 337, relating to appointments as reserve officers (other than sections 3351 and 3352), is repealed.

(2) Chapter 361, relating to separation for various reasons, is repealed.

(3) Chapter 363, relating to separation or transfer to the Retired Reserve, is repealed.

(b) NAVY AND MARINE CORPS PROVISIONS.—

(1) Chapter 541, relating to running mates as reserve officers, is repealed.

(2) Chapter 549, relating to reserve promotions, is repealed.

(3) Sections 6391, 6392, 6397, 6403, and 6410 are repealed.

(c) AIR FORCE PROVISIONS.—

(1) Chapter 837, relating to appointments as reserve officers (other than sections 8351 and 8352), is repealed.

(2) Sections 8819 and 8820 are repealed.

(3) Chapter 863, relating to separation or transfer to the Retired Reserve, is repealed.

SEC. 120. AMENDMENTS TO TITLE 32, UNITED STATES CODE.

Title 32, United States Code, is amended as follows:

(1) Sections 309 and 310 are amended to read as follows:

"§309. Federal recognition of National Guard officers: officers promoted to fill vacancies

"Each officer of the National Guard who is promoted to fill a vacancy in a federally recognized unit of the National Guard, and who has been on the reserve active-status list or the active-duty list of the Army or the Air Force for at least one year and has completed the minimum years of service in grade specified in section 14303 of title 10, shall be examined for Federal recognition in the grade to which the officer is promoted.

"§310. Federal recognition of National Guard officers: automatic recognition

"(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of first lieutenant, effective as of the date on which that officer has completed the service in the grade specified in section 14303(a)(1) of title 10 and has met such other requirements as prescribed by the Secretary concerned under section 14308(b) of that title, if the officer has remained in an active status since the officer was so recommended.

"(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve or the Air Force Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the National Guard to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade in which the officer is so appointed in the National Guard if the officer has been recommended for promotion under chapter 1405 of title 10 and has remained in an active status since the officer was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the National Guard.".

(2) Section 323 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) The Federal recognition of a reserve commissioned officer of the Army or the Air Force who is—

"(1) federally recognized as an officer of the National Guard; and

"(2) subject to involuntary transfer to the Retired Reserve, transfer to an inactive status list, or discharge under chapter 1407, 1409, or 1411 of title 10;

shall, if not sooner withdrawn, be withdrawn on the date of such involuntary transfer or discharge.".

TITLE II—OTHER PERSONNEL POLICY AMENDMENTS

PART A—APPOINTMENTS

SEC. 201. REPEAL OF SEPARATE AUTHORITY FOR ACCESSION OF WOMEN IN RESERVE COMPONENTS.

(a) ENLISTMENTS.—Section 510 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) APPOINTMENT OF OFFICERS.—Section 591 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 202. APPOINTMENT AUTHORITY FOR RESERVE GRADES OF LIEUTENANT COLONEL AND COMMANDER.

Section 593(a) is amended—

(1) in the first sentence, by striking out "Reserves in commissioned grades below lieutenant colonel and commander" and inserting in lieu thereof "reserve officers in commissioned grades of lieutenant colonel and commander or below"; and

(2) in the second sentence, by striking out "Reserves in commissioned grades above major and lieutenant commander" and inserting in lieu thereof "reserve officers in commissioned grades above lieutenant colonel and commander".

SEC. 203. APPOINTMENT OF FORMER COMMISSIONED OFFICERS IN RESERVE COMPONENTS.

Chapter 34 is amended by inserting after section 594 the following new section:

"§594a. Commissioned officers: appointment of former commissioned officers

"Under regulations prescribed by the Secretary of Defense, a person who is a former commissioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed—

"(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

"(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.".

SEC. 204. CONSTRUCTIVE CREDIT FOR APPOINTMENT OF OFFICERS IN RESERVE COMPONENTS WITH QUALIFYING EDUCATION OR EXPERIENCE.

Chapter 34 is further amended by inserting after section 595 the following new section:

"§596. Commissioned officers: service credit upon original appointment

"(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

"(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

"(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps, or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training, shall be credited with constructive service for such education, training, or experience, as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or assigned to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. Except as provided in subparagraph (D), in determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

"(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a speciality required by the armed force concerned.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being so appointed, designated, or assigned was admitted to a professional school. However, a person may not receive additional credit under this subparagraph if the amount of that person's baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

"(F) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

"(2) If the Secretary of Defense determines that the number of medical or dental officers serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment for service as a medical or dental officer with a period of constructive credit in such amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Naval Reserve, lieutenant.

"(3) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander.

"(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer or assignment to or designation in an officer category in which advanced education or training or special experience is required.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

"(e) Constructive service credited an officer under subsection (b) or (d) shall be used only for determining the officer's—

"(1) initial grade as a reserve officer;

"(2) rank in grade; and

"(3) service in grade for promotion eligibility.

"(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.".

SEC. 205. COMPUTATION OF YEARS OF SERVICE FOR TRANSFER OF ARMY OFFICERS TO RETIRED RESERVE.

(a) INTERIM REPEAL OF OBSOLETE PROVISION.—Effective for the period beginning on the date of the enactment of this Act and ending on the effective date specified in section 601, section 3853 is amended by striking out "the greater of—" and all that follows and inserting in lieu thereof "the sum of the following:

"(1) The officer's years of service as a commissioned officer of any component of the armed forces or of the Army without specification of component.

"(2) The officer's years of service in a federally recognized commissioned status in the National Guard if his service in the National Guard was continuous from the date of his Federal recognition as an officer in the National Guard to the date of his appointment in the National Guard of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transfers to the Retired Reserve and to discharges on or after the date of the enactment of this Act.

SEC. 206. REPEAL OF MISCELLANEOUS OBSOLETE APPOINTMENT AUTHORITIES.

(a) ARMY RESERVE OFFICERS APPOINTED IN TEMPORARY GRADES.—Section 3352(a) is amended by striking out the second sentence.

(b) AIR FORCE AVIATION CADETS.—Section 8356 is repealed.

(c) REDUNDANT STATEMENT OF AUTHORITY.—Section 8379 is repealed.

PART B—SEPARATION AND RETIREMENT

SEC. 221. COMPUTATION OF HIGHEST GRADE IN WHICH SATISFACTORILY SERVED FOR RESERVE COMMISSIONED OFFICERS AND FORMER OFFICERS.

Section 1370 is amended by adding at the end the following new subsection:

"(d)(1) Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade, under some other provision of law, a person who is entitled to retired pay under chapter 1225 of this title shall, upon application under section 12731 of this title, be credited with satisfactory service in the highest grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary concerned in accordance with this subsection.

"(2)(A) In order to be credited with satisfactory service in an officer grade (other than a warrant officer grade) below the grade of lieutenant colonel or commander, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than six months.

"(B) In order to be credited with satisfactory service in an officer grade above major or lieutenant commander and below lieutenant general or vice admiral, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years. A person covered by the preceding sentence who has completed at least six months of satisfactory service in grade and is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.

"(3) A person whose length of service in the highest grade held does not meet the service in grade requirements specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person served satisfactorily (as determined by the Secretary of the military department concerned) for not less than six months.".

PART C—OTHER AMENDMENTS

SEC. 241. TENURE IN OFFICE OF CHIEF OF NATIONAL GUARD BUREAU.

Section 3040(c) is amended by adding at the end the following new sentence: "While holding that office, the Chief of the National Guard Bureau may not be removed from the reserve ac-

tive-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.".

SEC. 242. RIGHT TO REENLIST IN REGULAR ARMY OR REGULAR AIR FORCE AFTER SERVICE AS AN OFFICER.

(a) ARMY.—Section 3258 is amended—

(1) by striking out "Any former enlisted member" and inserting in lieu thereof "(a) Subject to subsections (b) and (c), a former enlisted member";

(2) by striking out the last sentence; and

(3) by adding at the end the following:

"(b) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person is discharged or released from active duty from service as an officer described in that subsection—

"(1) because that person's performance of duty while serving as such an officer has fallen below standards prescribed by the Secretary of Defense;

"(2) because of misconduct or moral or professional dereliction; or

"(3) because retention of that person as an officer is not clearly consistent with the interest of national security.

"(c) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person's status and grade as an enlisted member were only held during, and solely as a result of, participation in a precommissioning program after the effective date of the Reserve Officer Personnel Management Act.".

(b) AIR FORCE.—Section 8258 is amended—

(1) by striking out "Any former enlisted member" and inserting in lieu thereof "(a) Subject to subsections (b) and (c), a former enlisted member";

(2) by striking out the last sentence; and

(3) by adding at the end the following:

"(b) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person is discharged or released from active duty from service as an officer described in that subsection—

"(1) because that person's performance of duty while serving as such an officer has fallen below standards prescribed by the Secretary of Defense;

"(2) because of misconduct or moral or professional dereliction; or

"(3) because retention of that person as an officer is not clearly consistent with the interest of national security.

"(c) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person's status and grade as an enlisted member were only held during, and solely as a result of, participation in a precommissioning program after the effective date of the Reserve Officer Personnel Management Act.".

TITLE III—REORGANIZATION AND CONSOLIDATION OF LAWS RELATING TO RESERVE COMPONENTS

SEC. 301. LAWS RELATING TO ORGANIZATION AND ADMINISTRATION OF RESERVE COMPONENTS.

(a) RESERVE COMPONENTS GENERALLY.—(1) Subtitle E, as added by section 101, is amended by inserting after the table of chapters at the beginning of the subtitle the following:

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap	Sec.
"1001. Definitions	10001
"1003. Reserve Components Generally	10101
"1005. Elements of Reserve Components	10141
"1007. Administration of Reserve Components	10201
"1009. Reserve Forces Policy Boards and Committees	10301
"1011. National Guard Bureau	10501
"1013. Budget Information and Annual Reports to Congress	10541

"CHAPTER 1001—DEFINITIONS

"Sec.
"10001. Definition of State.

"§10001. Definition of State

"In this subtitle, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"CHAPTER 1003—RESERVE COMPONENTS GENERALLY

"Sec.
"10101. Reserve components named.
"10102. Purpose of reserve components.
"10103. Basic policy for order of National Guard into Federal service.
"10104. Army Reserve: composition
"10105. Army National Guard of the United States: composition.
"10106. Army National Guard: when a component of the Army.
"10107. Army National Guard of the United States: status when not in Federal service.
"10108. Naval Reserve: administration.
"10109. Marine Corps Reserve: administration.
"10110. Air Force Reserve: composition.
"10111. Air National Guard of the United States: composition.
"10112. Air National Guard: when a component of the Air Force.
"10113. Air National Guard of the United States: status when not in Federal service.
"10114. Coast Guard Reserve.

"§10101. Reserve components named

"The reserve components of the armed forces are:

"(1) The Army National Guard of the United States.

"(2) The Army Reserve.

"(3) The Naval Reserve.

"(4) The Marine Corps Reserve.

"(5) The Air National Guard of the United States.

"(6) The Air Force Reserve.

"(7) The Coast Guard Reserve.

"§10102. Purpose of reserve components

"The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever, during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular components.

"§10103. Basic policy for order of the National Guard and reserve components to active duty

"Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed.

"§10104. Army Reserve: composition

"The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

"§10105. Army National Guard of the United States: composition

"The Army National Guard of the United States is the reserve component of the Army that consists of—

"(1) federally recognized units and organizations of the Army National Guard; and

"(2) members of the Army National Guard who are also Reserves of the Army.

"§10106. Army National Guard: when a component of the Army

"The Army National Guard while in the service of the United States is a component of the Army.

"§10107. Army National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

"§10108. Naval Reserve: administration

"(a) The Naval Reserve is the reserve component of the Navy. It shall be organized, administered, trained, and supplied under the direction of the Chief of Naval Operations.

"(b) The bureaus and offices of the executive part of the Department of the Navy have the same relation and responsibility to the Naval Reserve as they do to the Regular Navy.

"§10109. Marine Corps Reserve: administration

"The Marine Corps Reserve is the reserve component of the Marine Corps. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Marine Corps.

"(b) The departments and offices of Headquarters, Marine Corps have the same relation and responsibilities to the Marine Corps Reserve as they do to the Regular Marine Corps.

"§10110. Air Force Reserve: composition

"The Air Force Reserve is a reserve component of the Air Force to provide a reserve for active duty. It consists of the members of the officers' section of the Air Force Reserve and of the enlisted section of the Air Force Reserve. It includes all Reserves of the Air Force who are not members of the Air National Guard of the United States.

"§10111. Air National Guard of the United States: composition

"The Air National Guard of the United States is the reserve component of the Air Force that consists of—

"(1) federally recognized units and organizations of the Air National Guard; and

"(2) members of the Air National Guard who are also Reserves of the Air Force.

"§10112. Air National Guard: when a component of the Air Force

"The Air National Guard while in the service of the United States is a component of the Air Force.

"§10113. Air National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Air National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Air National Guard.

"§10114. Coast Guard Reserve

"As provided in section 701 of title 14, the Coast Guard Reserve is a component of the Coast Guard and is organized, administered, trained, and supplied under the direction of the Commandant of the Coast Guard. Laws applicable to the Coast Guard Reserve are set forth in chapter 21 of title 14 (14 U.S.C. 701 et seq.).

"CHAPTER 1005—ELEMENTS OF RESERVE COMPONENTS

"Sec.
"10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories.

"10142. Ready Reserve generally.
"10143. Ready Reserve: Selected Reserve.
"10144. Ready Reserve: Individual Ready Reserve.
"10145. Ready Reserve: placement in.
"10146. Ready Reserve: transfer from.
"10147. Ready Reserve: training requirements.
"10148. Ready Reserve: failure to satisfactorily perform prescribed training.
"10149. Ready Reserve: continuous screening.
"10150. Ready Reserve: transfer back from Standby Reserve.
"10151. Standby Reserve: composition.
"10152. Standby Reserve: inactive status list.
"10153. Standby Reserve: status of members.
"10154. Retired Reserve.

"§10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories

"(a) There are in each armed force a Ready Reserve, a Standby Reserve, and a Retired Reserve. Each Reserve shall be placed in one of those categories.

"(b) Reserves who are on the inactive status list of a reserve component, or who are assigned to the inactive Army National Guard or the inactive Air National Guard, are in an inactive status. Members in the Retired Reserve are in a retired status. All other Reserves are in an active status.

"(c) As prescribed by the Secretary concerned, each reserve component except the Army National Guard of the United States and the Air National Guard of the United States shall be divided into training categories according to the degrees of training, including the number and duration of drills or equivalent duties to be completed in stated periods. The designation of training categories shall be the same for all armed forces and the same within the Ready Reserve and the Standby Reserve.

"§10142. Ready Reserve

"(a) The Ready Reserve consists of units or Reserves, or both, liable for active duty as provided in sections 12301 and 12302 of this title.

"(b) The authorized strength of the Ready Reserve is 2,900,000.

"§10143. Ready Reserve: Selected Reserve

"(a) Within the Ready Reserve of each of the reserve components there is a Selected Reserve. The Selected Reserve consists of units, and, as designated by the Secretary concerned, of Reserves, trained as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32, as appropriate.

"(b) The organization and unit structure of the Selected Reserve shall be approved—

"(1) in the case of all reserve components other than the Coast Guard Reserve, by the Secretary of Defense based upon recommendations from the military departments as approved by the Chairman of the Joint Chiefs of Staff in accordance with contingency and war plans; and

"(2) in the case of the Coast Guard Reserve, by the Secretary of Transportation upon the recommendation of the Commandant of the Coast Guard.

"§10144. Ready Reserve: Individual Ready Reserve

"Within the Ready Reserve of each of the reserve components there is an Individual Ready Reserve. The Individual Ready Reserve consists of those members of the Ready Reserve who are not in the Selected Reserve or the inactive National Guard.

"§10145. Ready Reserve: placement in

"(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is transferred to the Standby Reserve under section 10146(a) of this title.

"(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

"(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

"(d) Under such regulations as the Secretary concerned may prescribe, any qualified member of a reserve component or any qualified retired enlisted member of a regular component may, upon his request, be placed in the Ready Reserve. However, a member of the Retired Reserve entitled to retired pay or a retired enlisted member of a regular component may not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the Ready Reserve are indispensable. The Secretary concerned may not delegate his authority under the preceding sentence.

"§10146. Ready Reserve: transfer from

"(a) Subject to subsection (c) and under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve.

"(b) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.

"(c) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other appropriate authority of the State.

"§10147. Ready Reserve: training requirements

"(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each person who is enlisted, inducted, or appointed in an armed force, and who becomes a member of the Ready Reserve under any provision of law except section 513 or 10145(b) of this title, shall be required, while in the Ready Reserve, to—

"(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year; or

"(2) serve on active duty for training not more than 30 days during each year.

"(b) A member who has served on active duty for one year or longer may not be required to perform a period of active duty for training if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve.

"§10148. Ready Reserve: failure to satisfactorily perform prescribed training

"(a) A member of the Ready Reserve covered by section 10147 of this title who fails in any year to perform satisfactorily the training duty prescribed in that section, as determined by the Secretary concerned under regulations prescribed by the Secretary of Defense, may be ordered without his consent to perform additional active duty for training for not more than 45 days. If the failure occurs during the last year of his required membership in the Ready Reserve, his membership is extended until he performs that additional active duty for training, but not for more than six months.

"(b) A member of the Army National Guard of the United States or the Air National Guard of the United States who fails in any year to perform satisfactorily the training duty prescribed by or under law for members of the Army National Guard or the Air National Guard, as the case may be, as determined by the Secretary concerned, may, upon the request of the Governor of the State (or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard) be ordered, without his consent, to perform additional active duty for training for not more than 45 days. A member ordered to active duty under this subsection shall be ordered to duty as a Reserve of the Army or as a Reserve of the Air Force, as the case may be.

"§10149. Ready Reserve: continuous screening

"(a) Under regulations to be prescribed by the President, the Secretary concerned shall provide a system of continuous screening of units and members of the Ready Reserve to ensure the following:

"(1) That there will be no significant attrition of those members or units during a mobilization.

"(2) That there is a proper balance of military skills.

"(3) That except for those with military skills for which there is an overriding requirement, members having critical civilian skills are not retained in numbers beyond the need for those skills.

"(4) That with due regard to national security and military requirements, recognition will be given to participation in combat.

"(5) That members whose mobilization in an emergency would result in an extreme personal or community hardship are not retained in the Ready Reserve.

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be—

"(1) transferred to the Standby Reserve;

"(2) discharged; or

"(3) if the member is eligible and applies therefor, transferred to the Retired Reserve.

"§10150. Ready Reserve: transfer back from Standby Reserve

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Standby Reserve who has not completed his required period of service in the Ready Reserve may be transferred to the Ready Reserve when the reason for his transfer to the Standby Reserve no longer exists.

"§10151. Standby Reserve: composition

"The Standby Reserve consists of those units or members, or both, of the reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 12301 and 12306 of this title.

"§10152. Standby Reserve: inactive status list

"(a) An inactive status list shall be maintained in the Standby Reserve. Whenever an authority designated by the Secretary concerned considers that it is in the best interest of the armed force concerned, a member in the Standby Reserve who is not required to remain a Reserve, and who cannot participate in prescribed training, may, if qualified, be transferred to the inactive status list under regulations to be prescribed by the Secretary concerned. These regulations shall fix the conditions under which such a member is entitled to be returned to an active status.

"§10153. Standby Reserve: status of members

"While in an inactive status, a Reserve is not eligible for pay or promotion and (as provided in

section 12734(a) of this title) does not accrue credit for years of service under chapter 1223 of this title.

"§10154. Retired Reserve

"The Retired Reserve consists of the following Reserves:

"(1) Reserves who are or have been retired under section 3911, 6323, or 8911 of this title or under section 291 of title 14.

"(2) Reserves who have been transferred to the Retired Reserve upon their request, retain their status as Reserves, and are otherwise qualified.

"CHAPTER 1007—ADMINISTRATION OF RESERVE COMPONENTS

"Sec.
"10201. Assistant Secretary of Defense for Reserve Affairs.
"10202. Regulations.
"10203. Reserve affairs: designation of general or flag officer of each armed force.
"10204. Personnel records.
"10205. Members of Individual Ready Reserve: requirement of notification of change of status.
"10206. Members: periodic physical examinations.
"10207. Mobilization forces: maintenance.
"10208. Annual mobilization exercise.
"10209. Regular and reserve components: discrimination prohibited.
"10210. Dissemination of information.
"10211. Policies and regulations: participation of reserve officers in preparation and administration.
"10212. Reserve components: dual membership prohibited.
"10213. Adjutants general and assistant adjutants general: reference to other officers of National Guard.
"10214. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status.

"§10201. Assistant Secretary of Defense for Reserve Affairs

"As provided in section 136(b)(2) of this title, the official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the Assistant Secretary of Defense for Reserve Affairs.

"§10202. Regulations

"(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as the Secretary considers necessary to carry out provisions of law relating to the reserve components under the Secretary's jurisdiction.

"(b) The Secretary of Transportation, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as the Secretary considers necessary to carry out all provisions of law relating to the reserve components insofar as they relate to the Coast Guard, except when the Coast Guard is operating as a service in the Navy.

"(c) So far as practicable, regulations for all reserve components shall be uniform.

"§10203. Reserve affairs: designation of general or flag officer of each armed force

"(a) The Secretary of the Army may designate a general officer of the Army to be directly responsible for reserve affairs to the Chief of Staff of the Army.

"(b) The Secretary of the Navy may designate a flag officer of the Navy to be directly responsible for reserve affairs to the Chief of Naval Operations and a general officer of the Marine Corps to be directly responsible for reserve affairs to the the Commandant of the Marine Corps.

"(c) The Secretary of the Air Force may designate a general officer of the Air Force to be directly responsible for reserve affairs to the Chief of Staff of the Air Force.

"(d) The Secretary of Transportation may designate a flag officer of the Coast Guard to be directly responsible for reserve affairs to the Commandant of the Coast Guard.

"(e) This section does not affect the functions of the Chief of the National Guard Bureau, the Chief of Army Reserve, or the Chief of Air Force Reserve.

"§10204. Personnel records

"(a) The Secretary concerned shall maintain adequate and current personnel records of each member of the reserve components under the Secretary's jurisdiction showing the following with respect to the member:

"(1) Physical condition.

"(2) Dependency status.

"(3) Military qualifications.

"(4) Civilian occupational skills.

"(5) Availability for service.

"(6) Such other information as the Secretary concerned may prescribe.

"(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary of each military department shall maintain a record of the number of members of each class of each reserve component who, during each fiscal year, have participated satisfactorily in active duty for training and inactive duty training with pay.

"§10205. Members of Ready Reserve: requirement of notification of change of status

"(a) Each member of the Ready Reserve shall notify the Secretary concerned of any change in the member's address, marital status, number of dependents, or civilian employment and of any change in the member's physical condition that would prevent the member from meeting the physical or mental standards prescribed for the member's armed force.

"(b) This section shall be administered under regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"§10206. Members: periodic physical examinations

"(a) Each member of the Ready Reserve who is not on active duty shall—

"(1) be examined as to his physical fitness every four years, or more often as the Secretary concerned considers necessary; and

"(2) execute and submit annually to the Secretary concerned a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually to the Secretary concerned a certificate of physical condition.

"(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.

"§10207. Mobilization forces: maintenance

"(a) Whenever units or members of the reserve components are ordered to active duty (other than for training) during a period of partial mobilization, the Secretary concerned shall continue to maintain mobilization forces by planning and budgeting for the continued organization and training of the reserve components not mobilized, and make the fullest practicable use of the Federal facilities vacated by mobilized units, consistent with approved joint mobilization plans.

"(b) In this section, the term 'partial mobilization' means the mobilization resulting from action by Congress or the President, under any law, to bring units of any reserve component, and members not assigned to units organized to serve as units, to active duty for a limited expansion of the active armed forces.

"§10208. Annual mobilization exercise

"(a) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units.

"(b) The Secretary shall maintain a plan to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

"§10209. Regular and reserve components: discrimination prohibited

"Laws applying to both Regulars and Reserves shall be administered without discrimination—

"(1) among Regulars;

"(2) among Reserves; and

"(3) between Regulars and Reserves.

"§10210. Dissemination of information

"The Secretary of Defense shall require the complete and current dissemination, to all Reserves and to the public, of information of interest to the reserve components.

"§10211. Policies and regulations: participation of Reserve officers in preparation and administration

"Within such numbers and in such grades and assignments as the Secretary concerned may prescribe, each armed force shall have officers of its reserve components on active duty (other than for training) at the seat of government, and at headquarters responsible for reserve affairs, to participate in preparing and administering the policies and regulations affecting those reserve components. While so serving, such an officer is an additional member of any staff with which he is serving.

"§10212. Reserve components: dual membership prohibited

"Except as otherwise provided in this title, no person may be a member of more than one reserve component at the same time.

"§10213. Adjutants general and assistant adjutants general: reference to other officers of National Guard

"In any case in which, under the laws of a State, an officer of the National Guard of that jurisdiction, other than the adjutant general or an assistant adjutant general, normally performs the duties of that office, the references in sections 12004(b)(1), 12214, 12642(c), 14507(b), 14508(e), and 14512 of this title to the adjutant general or the assistant adjutant general shall be applied to that officer instead of to the adjutant general or assistant adjutant general.

"§10214. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status

"(a)(1) Officers of the Army National Guard of the United States who are not on active duty—

"(A) may order members of the Army National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Air Force, may order members of the Air National Guard of the United States to active duty for training under that section.

"(2) Officers of the Air National Guard of the United States who are not on active duty—

"(A) may order members of the Air National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Army, may order members of the Army National Guard of the United States to active duty for training under that section.

"(b) Officers of the Army National Guard of the United States or the Air National Guard of the United States who are not on active duty—

"(1) may enlist, reenlist, or extend the enlistments of persons as Reserves of the Army or Reserves of the Air Force for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be; and

"(2) with respect to their Federal status, may promote or discharge persons enlisted or reenlisted as Reserves of the Army or Reserves of the Air Force for that service.

"(c) This section shall be carried out under regulations prescribed by the Secretary of the Army, with respect to matters concerning the Army, and by the Secretary of the Air Force, with respect to matters concerning the Air Force.".

(2)(A) Sections 261 through 265 and 267 through 281 are repealed.

(B) Chapter 11 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"261. Reference to chapters 1003, 1005, and 1007.

"§261. Reference to chapters 1003, 1005, and 1007

"Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.".

(3)(A) Chapter 519 and sections 652, 2001, 3076 through 3080, and 8076 through 8080 are repealed.

(B) Section 552(e) of Public Law 98-525 is repealed.

(4) Section 1004 is amended—

(A) by striking out subsections (a) and (b); and

(B) by striking out "(c)" before "Except as otherwise provided".

(5)(A) Section 10147(a), as added by paragraph (1), applies only to persons who were inducted, enlisted, or appointed in an armed force after August 9, 1955.

(B) Section 10148(b), as added by paragraph (1), applies only to persons who became members of the Army National Guard of the United States or the Air National Guard of the United States after October 4, 1961.

(b) BOARDS AND COMMITTEES.—(1) Part I of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1009—RESERVE FORCES POLICY BOARDS AND COMMITTEES

"Sec.
"10301. Reserve Forces Policy Board.
"10302. Army Reserve Forces Policy Committee.
"10303. Naval Reserve Policy Board.
"10304. Marine Corps Reserve Policy Board.
"10305. Air Force Reserve Forces Policy Committee.

"§10301. Reserve Forces Policy Board

"(a) There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The Board consists of the following:

"(1) A civilian chairman appointed by the Secretary of Defense.

"(2) The Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

"(3) An officer of the Regular Army designated by the Secretary of the Army.

"(4) An officer of the Regular Navy or Regular Marine Corps designated by the Secretary of the Navy.

"(5) An officer of the Regular Air Force designated by the Secretary of the Air Force.

"(6) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Army, two of whom must be members of the Army National Guard of the United States, and two of whom must be members of the Army Reserve.

"(7) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy, two of whom must be members of the Naval Reserve, and two of whom must be members of the Marine Corps Reserve.

"(8) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force, two of whom must be members of the Air National Guard of the United States, and two of whom must be members of the Air Force Reserve.

"(9) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general officer or flag officer designated by the Chairman of the Board with the approval of the Secretary of Defense, and who serves without vote as military adviser to the Chairman and as executive officer of the Board.

"(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation may designate two officers of the Coast Guard, Regular or Reserve, to serve as voting members of the Board.

"(c) The Board, acting through the Assistant Secretary of Defense for Reserve Affairs, is the principal policy adviser to the Secretary of Defense on matters relating to the reserve components.

"(d) This section does not affect the committees on reserve policies prescribed within the military departments by sections 10302 through 10305 of this title.

"(e) A member of a committee or board prescribed under a section listed in subsection (d) may, if otherwise eligible, be a member of the Reserve Forces Policy Board.

"(f) The Board shall act on those matters referred to it by the Chairman and, in addition, on any matter raised by a member of the Board.

"§10303. Naval Reserve Policy Board

"A Naval Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Naval Reserve.

"§10304. Marine Corps Reserve Policy Board

"A Marine Corps Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Marine Corps Reserve.".

(2)(A) Section 3021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10301, and redesignated as section 10302.

(B) Section 8021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10304, and redesignated as section 10305.

(3) The text of section 175 is amended to read as follows:

"There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title.".

(4)(A) Chapter 303 (as amended by paragraph (2)(A)) is amended by adding at the end the following:

"§3021. Army Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Army an Army Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10302 of this title.".

(B) Chapter 803 (as amended by paragraph (2)(B)) is amended by adding at the end the following:

"§8021. Air Force Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Air Force an Air Force Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10305 of this title.".

(c) NATIONAL GUARD BUREAU.—(1) Part I of subtitle E, as added by subsection (a), is amended by adding after chapter 1009, as added by subsection (b), the following:

"CHAPTER 1011—NATIONAL GUARD BUREAU

"Sec.
"10501. National Guard Bureau: organization; function.
"10502. Chief of Bureau: appointment.
"10503. Chief of Bureau: term of office; grade; filling vacancy.
"10504. National Guard Bureau: assignment of officers of regular or reserve components.

"§10501. National Guard Bureau: organization; function

"There is a National Guard Bureau, which is a joint bureau of the Department of the Army and the Department of the Air Force. The National Guard Bureau is the channel of communication between the departments concerned and the several States, Territories, Puerto Rico, and the District of Columbia on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

"§10502. Chief of Bureau: appointment

"(a) CHIEF.—The National Guard Bureau is headed by a chief who is the adviser to the Army Chief of Staff and the Air Force Chief of Staff on National Guard matters.

"(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Chief of the Bureau from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

"(1) have been recommended by their respective governors;

"(2) have had at least 10 years of commissioned service in the active National Guard; and

"(3) are in a grade above lieutenant colonel.

"§10503. Chief of Bureau: term of office; grade; filling vacancy

"(a) TERM OF OFFICE.—The Chief of the National Guard Bureau holds office for four years, but may be removed for cause at any time. An officer may not hold the office of Chief of the Bureau after attaining 64 years of age. He is eligible to succeed himself. While holding that office, the Chief of the Bureau may not be removed from the reserve active-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.

"(b) GRADE WHILE SERVING.—If an officer appointed as Chief of the National Guard Bureau holds a lower reserve grade, the officer shall be appointed as a Reserve in his armed force in the grade of major general for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, while serving as Chief of the Bureau.

"(c) DISABILITY; VACANCY.—If the Chief of the Bureau is unable, because of disability, to perform the functions of his office, or if that office is vacant, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty in the Bureau shall act as its chief until the disability ceases or a successor is appointed.

"§10504. National Guard Bureau: assignment of officers of regular or reserve components

"Except as provided in section 12402(b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army and the Air Force as he considers necessary.".

(2) Sections 3040, 3541, and 8541 are repealed.

(d) ANNUAL REPORT ON GUARD AND RESERVE EQUIPMENT.—(1) Part I of subtitle E, as added by subsection (a), is amended by adding after chapter 1011, as added by subsection (c), the following:

"CHAPTER 1013—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS

"Sec.
"10541. National Guard and reserve component equipment: annual report to Congress.".

(2) Section 115b is transferred to chapter 1013, as added by paragraph (1), inserted after the table of sections, and redesignated as section 10541.

(3) The heading of that section is amended to read as follows:

"§10541. National Guard and reserve component equipment: annual report to Congress".

SEC. 302. LAWS RELATING TO RESERVE COMPONENT PERSONNEL POLICY.

(a) STRENGTH AND DISTRIBUTION IN GRADE.—(1) Subtitle E, as added by section 101, is amended by inserting after part I of such subtitle, as added by section 301, the following:

"PART II—PERSONNEL GENERALLY

"Chap.	Sec.
"1201. Authorized Strengths and Distribution in Grade	12001
"1203. Enlisted Members	12101
"1205. Appointment of Reserve Officers	12201
"1207. Warrant Officers	12241
"1209. Active Duty	12301
"1211. National Guard Members in Federal Service	12401
"1213. Special Appointments, Assignments, Details, and Duties	12501
"1215. Miscellaneous Prohibitions and Penalties	[No present sections]
"1217. Miscellaneous Rights and Benefits	12601
"1219. Standards and Procedures for Retention and Promotion	12641
"1221. Separation	12681
"1223. Retired Pay for Non-Regular Service	12731
"1225. Retired Grade	12771

"CHAPTER 1201—AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE

"Sec.
"12001. Authorized strengths: reserve components.
"12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty.
"12003. Authorized strengths: commissioned officers active status.
"12004. Strength in grade: reserve general and flag officers in an active status.
"12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status.
"12006. Strength limitations: authority to waive in time of war or national emergency.
"12007. Reserve officers of the Army: distribution.
"12008. Army Reserve and Air Force Reserve: warrant officers.
"12009. Army and Air Force reserve components: temporary increases.
"12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result.
"12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.
"12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

"§12001. Authorized strengths: reserve components

"(a) Whenever the authorized strength of a reserve component (other than the Coast Guard Reserve) is not prescribed by law, it shall be prescribed by the President.

"(b) Subject to the authorized strength of the reserve component concerned, the authorized strength of each reserve component (other than the Coast Guard Reserve) in members in each grade is that which the Secretary concerned determines to be necessary to provide for mobilization requirements. The Secretary shall review these determinations at least once each year and revise them if he considers it necessary. However, a member of the reserve component concerned may not, as a result of such a determination, be reduced in the member's reserve grade without the member's consent.

"§12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty

"(a) The authorized strengths of the National Guard and the reserve components of the Army and the Air Force, exclusive of members who are included in the strengths authorized for members of the Army and Air Force, respectively, on active duty, are as follows:

"Army National Guard and the Army National Guard of the United States	600,000
"Army Reserve	980,000
"Air National Guard and the Air National Guard of the United States	150,000
"Air Force Reserve	500,000.

"(b) The strength authorized by this section for the Army National Guard and the Army National Guard of the United States, and the strength authorized by this section for the Air National Guard and the Air National Guard of the United States, shall be allocated among the States.

"§12003. Authorized strengths: commissioned officers in an active status

"(a) The authorized strengths of the Army, Navy, Air Force, and Marine Corps in reserve commissioned officers, other than commissioned warrant officers and officers on an active-duty list, in an active status are as follows:

"Army	275,000
"Air Force	200,000
"Navy	150,000
"Marine Corps	24,500.

"(b) The authorized strengths prescribed by subsection (a) may not be exceeded unless—

"(1) the Secretary concerned determines that a greater number is necessary for planned mobilization requirements; or

"(2) the excess results directly from the operation of a nondiscretionary provision of law.

"§12004. Strength in grade: reserve general and flag officers in an active status

"(a) The authorized strengths of the Army, Air Force, and Marine Corps in reserve general officers in an active status, and the authorized strength of the Navy in reserve officers in the grades of rear admiral (lower half) and rear admiral in an active-status, are as follows:

"Army	207
"Air Force	157
"Navy	48
"Marine Corps	10.

"(b) The following Army and Air Force reserve officers shall not be counted for purposes of this section:

"(1) Those serving as adjutants general or assistant adjutants general of a State.

"(2) Those serving in the National Guard Bureau.

"(3) Those counted under section 526 of this title.

"(c)(1) The authorized strength of the Navy under subsection (a) is exclusive of officers counted under section 526 of this title. Of the number authorized under subsection (a), 39 are distributed among the line and the staff corps as follows:

"Line	28
"Medical Corps	5
"Chaplain Corps	1
"Judge Advocate General's Corps	1
"Dental Corps	2.
"Nurse Corps	1.
"Medical Service Corps	1.

"(2) The remaining authorizations for the Navy under subsection (a) shall be distributed among such other staff corps as are established by the Secretary of the Navy under the authority provided by section 5150(b) of this title, except that—

"(A) if the Secretary has established a Supply Corps, the authorized strength for the Supply Corps shall be seven; and

"(B) if the Secretary has established a Civil Engineering Corps, the authorized strength for the Civil Engineering Corps shall be two.

"(3) Not more than 50 percent of the officers in an active status authorized under this section for the Navy may serve in the grade of rear admiral.

"(d) The authorized strength of the Marine Corps under subsection (a) is exclusive of those counted under section 526 of this title.

"(e)(1) A reserve general officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of general officers authorized under subsection (a).

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status

"(a)(1) Subject to paragraph (2), the authorized strength of the Army and the Air Force in reserve commissioned officers in an active status in each grade named in paragraph (2) is as prescribed by the Secretary of the Army or the Secretary of the Air Force, respectively. A vacancy in any grade may be filled by an authorized appointment in any lower grade.

"(2) A strength prescribed by the Secretary concerned under paragraph (1) for a grade may not be higher than the percentage of the strength authorized for the Army or the Air Force, as the case may be, under section 12003 of this title that is specified for that grade as follows:

Grade	Army percentage	Air Force percentage
Colonel	2	1.8
Lieutenant colonel	6	4.6
Major	13	14.0

Grade	Army percentage	Air Force percentage
Captain	35	32.0
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	44	47.6

"(b)(1) The authorized strengths of the Naval Reserve in line officers in an active status in the grades of captain, commander, lieutenant commander, and lieutenant, and in the grades of lieutenant (junior grade) and ensign combined, are the following percentages of the total authorized number of those officers:

"Captain	1.5 percent
"Commander	7 percent
"Lieutenant commander	22 percent
"Lieutenant	37 percent
"Lieutenant (junior grade) and ensign (when combined with the number authorized for flag officer grades under section 12004 of this title)	32.5 percent.

"(2) When the actual number of line officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(c)(1) The authorized strengths of the Marine Corps Reserve in officers in an active status in the grades of colonel, lieutenant colonel, major, and captain, and in the grades of first lieutenant and second lieutenant combined, are the following percentages of the total authorized number of those officers:

"Colonel	2 percent
"Lieutenant colonel	6 percent
"Major	12 percent
"Captain	35 percent
"First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	32.5 percent.

"(2) When the actual number of officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(d)(1) An officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of commissioned officers authorized for the officer's grade under this section.

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§12006. Strength limitations: authority to waive in time of war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President, the President may suspend the operation of any provision of section 12003, 12004, or 12005 of this title. So long as any such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any suspension under subsection (a) shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621, 1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of termination of the emergency.

"§12007. Reserve officers of the Army: distribution

"The Secretary of the Army shall distribute the number of reserve commissioned officers, other than commissioned warrant officers, authorized in each commissioned grade between those assigned to reserve units organized to serve as units and those not assigned to such units. The Secretary shall distribute the number who are assigned to reserve units organized to serve as units among the units of each reserve component by prescribing appropriate tables of organization and tables of distribution. The Secretary shall distribute the number who are not assigned to such units between—

"(1) each special branch; and

"(2) all other branches taken together.

"§12008. Army Reserve and Air Force Reserve: warrant officers

"The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers. The Secretary of the Air Force may prescribe the authorized strength of the Air Force Reserve in warrant officers.

"§12009. Army and Air Force reserve components: temporary increases

"(a) The authorized strength in any reserve grade, as prescribed under this chapter, for any reserve component under the jurisdiction of the Secretary of the Army or the Secretary of the Air Force is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 3036, 14304(b), 14314, or 14317 of this title.

"(b) An authorized strength so increased is increased for no other purpose. While an officer holds that grade, the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

"§12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result

"When there is a fraction in the final result of any computation under this chapter for the Naval Reserve or the Marine Corps Reserve, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

"§12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or National Guard

"(a) The number of enlisted members in pay grades E-8 and E-9 who may be on active duty (other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not exceed the number for that grade and armed force in the following table:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	569	202	279	14
E-8	2,585	429	800	74

"(b) Whenever the number of members serving in pay grade E-9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E-8.".

(2)(A) Section 524 is transferred to chapter 1201, as added by paragraph (1), inserted after section 12010, and redesignated as section 12011.

(B) The heading of that section is amended to read as follows:

"§12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard".

(3) Chapter 531 and sections 3212, 3217 through 3225, 5454, 5456, 5457, 5458, 8212, and 8217 through 8225 are repealed.

(4) Section 517 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b) and in that subsection striking out "or whenever" and all that follows through "under subsection (b),".

(b) ENLISTMENTS.—(1) Part II of subtitle E, as added by subsection (a), is amended by adding after chapter 1201 (as added by subsection (a)), the following:

"CHAPTER 1203—ENLISTED MEMBERS

"Sec.
"12101. Definition.
"12102. Reserve components: qualifications.
"12103. Reserve components: terms.
"12104. Reserve components: transfers.
"12105. Army Reserve and Air Force Reserve: transfer from Guard components.
"12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard.
"12107. Army National Guard of United States; Air National Guard of the United States: enlistment in.

"§12101. Definition

"In this chapter, the term 'enlistment' means original enlistment or reenlistment.

"§12105. Army Reserve and Air Force Reserve: transfer from Guard components

"(a) Under such regulations as the Secretary concerned may prescribe—

"(1) an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve; and

"(2) an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

"(b) Upon such a transfer, the member transferred is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if transferred under subsection (a)(1), or the Air Force, if transferred under subsection (a)(2), if his service has been honorable.

"(c) A transfer under this section may only be made with the consent of the governor or other appropriate authority of the State concerned.

"§12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard

"(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

"(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

"(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of

the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

"§12107. Army National Guard of United States; Air National Guard of the United States: enlistment in

"(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

"(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

"(2) subscribe to the oath set forth in section 304 of title 32; and

"(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

"(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States.

"(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for service in the Air National Guard of the United States.

"(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard, becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

"(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.".

(2) Sections 510 (as amended by section 201(a)), 511, and 512 are transferred to chapter 1203, as added by paragraph (1), inserted after section 12101, and redesignated as follows:

Section	Redesignated section
510	12102
511	12103
512	12104

(3) The following sections are repealed: sections 3259, 3260, 3261, 8259, 8260, and 8261.

(c) APPOINTMENT OF OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1203 (as added by subsection (b)) the following:

"CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS

"Sec.
"12201. Qualifications for appointment.
"12202. Commissioned officer grades.
"12203. Commissioned officers: appointment, how made; term.
"12204. Commissioned officers: original appointment; limitation.
"12205. Commissioned officers: appointment of former commissioned officers.
"12206. Officers: appointment upon transfer.
"12207. Commissioned officers: service credit upon original appointment.
"12208. Officer candidates: enlisted Reserves.
"12209. Attending Physician to the Congress: reserve grade while so serving.
"12210. Officers: Army National Guard of United States.
"12211. Officers: Air National Guard of United States.
"12212. Officers; Army Reserve: transfer from Army National Guard of United States.
"12213. Officers; Air Force Reserve: transfer from Air National Guard of United States.
"12214. Commissioned officers: reserve grade of adjutants general and assistant adjutants general.

"§12214. Commissioned officers: reserve grade of adjutants general and assistant adjutants general

"(a) The adjutant general or an assistant adjutant general of the Army National Guard of a State may, upon being extended Federal recognition, be appointed as a reserve officer of the Army as of the date on which he is so recognized.

"(b) The adjutant general or an assistant adjutant general of the Air National Guard of a State may be appointed in the reserve commissioned grade in which Federal recognition in the Air National Guard is extended to him.".

(2) Sections 591 (as amended by section 201(b)), 592, 593 (as amended by section 202), 594, 594a (as added by section 203), 595, and 596 (as added by section 204) are transferred to chapter 1205, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
591	12201
592	12202
593	12203
594	12204
594a (as added by section 203)	12205
595	12206
596 (as added by section 204)	12207

(3) Sections 600, 600a, 3351, 8351, 3352 (as amended by section 206(a)), and 8352 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after section 12207, and redesignated as follows:

Section	Redesignated section
600	12208
600a	12209
3351	12210
8351	12211
3352	12212
8352	12213

(d) WARRANT OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1205 (as added by subsection (c)) the following:

"CHAPTER 1207—WARRANT OFFICERS

"Sec.
"12241. Warrant officers: grades; appointment, how made; term.
"12242. Warrant officers: promotion.
"12243. Warrant officers: suspension of laws for promotions or mandatory retirement or separation during war or emergency.".

(2) Sections 597, 598, and 599 are transferred to chapter 1207, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
597	12241
598	12242
599	12243

(3) Chapter 34 is amended to read as follows:

"CHAPTER 34—APPOINTMENTS AS RESERVE OFFICERS

"Sec.
"591. Reference to chapters 1205 and 1207.

"§591. Reference to chapter 1205 and 1207

"Provisions of law relating to appointments of reserve officers other than warrant officers are set forth in chapter 1205 of this title (beginning with section 12201). Provisions of law relating to appointments and promotion of reserve warrant officers are set forth in chapter 1207 (beginning with section 12241).".

(e) ACTIVE DUTY.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1207 (as added by subsection (d)) the following:

"CHAPTER 1209—ACTIVE DUTY

"Sec.
"12301. Reserve components generally.
"12302. Ready Reserve.
"12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units.
"12304. Selected Reserve: order to active duty other than during war or national emergency.
"12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation.
"12306. Standby Reserve.
"12307. Retired Reserve.
"12308. Retention on active duty after becoming qualified for retired pay.
"12309. Reserve officers: use of in expansion of armed forces.
"12310. Reserves: for organizing, administering, etc., reserve components.
"12311. Active duty agreements.
"12312. Active duty agreements: release from duty.
"12313. Reserves: release from active duty.
"12314. Reserves: kinds of duty.
"12315. Reserves: duty with or without pay.
"12316. Payment of certain Reserves while on duty.
"12317. Reserves: theological students; limitations.
"12318. Reserves on active duty: duties; funding.
"12319. Ready Reserve: muster duty.
"12320. Reserve officers: grade in which ordered to active duty.
"12321. Limitation on duty with Reserve Officer Training Corps units.".

(2) Sections 672 through 687, section 689 (as amended by section 114), and section 690 are transferred to chapter 1209, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
672	12301
673	12302
673a	12303
673b	12304
673c	12305
674	12306
675	12307
676	12308
677	12309
678	12310
679	12311
680	12312
681	12313
682	12314
683	12315
684	12316
685	12317
686	12318
687	12319
689	12320
690	12321

(3) Chapter 39 is amended by inserting after section 671b the following:

"§672. Reference to chapter 1209

"Provisions of law relating to service of members of reserve components on active duty are set forth in chapter 1209 of this title (beginning with section 12301).".

(f) NATIONAL GUARD MEMBERS IN FEDERAL SERVICE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding

after chapter 1209 (as added by subsection (e)) the following:

"CHAPTER 1211—NATIONAL GUARD MEMBERS IN FEDERAL SERVICE

"Sec.
"12401. Army and Air National Guard of United States: status.
"12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau.
"12403. Army and Air National Guard of United States: members; status in which ordered into Federal service.
"12404. Army and Air National Guard of United States: mobilization; maintenance of organization.
"12405. National Guard in Federal service: status.
"12406. National Guard in Federal service: call.
"12407. National Guard in Federal service: period of service; apportionment.
"12408. National Guard in Federal service: physical examination.

"§12401. Army and Air National Guard of the United States: status

"Members of the Army National Guard of the United States and the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

"§12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau

"(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States and the Air National Guard of the United States to active duty in the National Guard Bureau.

"(b)(1) The number of officers of the Army National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Army serving in that Bureau in any grade below brigadier general.

"(2) The number of officers of the Air National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Air Force authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Air Force serving in that Bureau in any grade below brigadier general.

"§12403. Army and Air National Guard of United States: members; status in which ordered into Federal service

"Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

"§12404. Army and Air National Guard of United States: mobilization; maintenance of organization

"During an initial mobilization, the organization of a unit of the Army National Guard of the United States or of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

"§12405. National Guard in Federal service: status

"Members of the National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army or the Air Force, as the case may be, except those applicable only to members of the Regular Army or Regular Air Force, as the case may be.

"§12406. National Guard in Federal service: call

"Whenever—

"(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

"(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

"(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

"§12407. National Guard in Federal service: period of service; apportionment

"(a) Whenever the President calls the National Guard of a State into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the National Guard may be kept in Federal service beyond the term of his commission or enlistment.

"(b) When the National Guard of a State is called into Federal service with the National Guard of another of those jurisdictions, the President may apportion the total number called from the Army National Guard or from the Air National Guard, as the case may be, on the basis of the populations of the jurisdictions affected by the call.

"§12408. National Guard in Federal service: physical examination

"(a) Under regulations prescribed by the President, each member of the National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

"(b) Immediately before such a member is mustered out of Federal service, he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.".

(2) Sections 3495 through 3502 and 8495 through 8502 are repealed.

(g) MISCELLANEOUS PROVISIONS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1211 (as added by subsection (f)) the following:

"CHAPTER 1213—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

"Sec.
"12501. Reserve components: detail of members of regular and reserve components to assist.
"12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.

"§12501. Reserve components: detail of members of regular and reserve components to assist

"The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

"§12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail

"(a) The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

"(b) The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

"CHAPTER 1215—MISCELLANEOUS PROHIBITIONS AND PENALTIES

"[No present sections]

"CHAPTER 1217—MISCELLANEOUS RIGHTS AND BENEFITS

"Sec.
"12601. Compensation: Reserve on active duty accepting from any person.
"12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard.

"§12601. Compensation: Reserve on active duty accepting from any person

"Any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person.

"§12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard

"(a) For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

"(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Army; and

"(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

"(b) For the purposes of laws providing benefits for members of the Air National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Air Force;

"(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Air Force; and

"(3) inactive-duty training performed by a member of the Air National Guard of the United

States in his status as a member of the Air National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Air Force.".

(2) Sections 715, 1033, 3542, 3686, 8542, and 8686 are repealed.

(h) STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1217 (as added by subsection (g)) the following:

"CHAPTER 1219—STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

"Sec.
"12641. Standards and procedures: Secretary to prescribe.
"12642. Standards and qualifications: result of failure to comply with.
"12643. Boards for appointment, promotion, and certain other purposes: composition.
"12644. Members physically not qualified for active duty: discharge or transfer to retired status.
"12645. Commissioned officers: retention until completion of required service.
"12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.
"12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.".

(2) Sections 1001, 1002, 266, 1004 (as amended by section 301(b)(4)), and 1005 through 1007 are transferred (in that order) to chapter 1219, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
1001	12641
1002	12642
266	12643
1004	12644
1005	12645
1006	12646
1007	12647

(3) Section 1003 is repealed.

(4)(A) The heading of section 12641 (as so redesignated) is amended to read as follows:

"§12641. Standards and procedures: Secretary to prescribe".

(B) The heading of section 12644 (as so redesignated) is amended to read as follows:

"§12644. Members physically not qualified for active duty: discharge or transfer to retired status".

(5) Chapter 51 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"1001. Reference to chapter 1219.

"§1001. Reference to chapter 1219

"Provisions of law relating to standards and procedures for retention and promotion of members of reserve components are set forth in chapter 1219 of this title (beginning with section 12641).".

(i) SEPARATION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1219 (as added by subsection (h)) the following:

"CHAPTER 1221—SEPARATION

"Sec.
"12681. Reserves: discharge authority.
"12682. Reserves: discharge upon becoming ordained minister of religion.
"12683. Reserve officers: limitation on involuntary separation.
"12684. Reserves: separation for absence without authority or sentence to imprisonment.
"12685. Reserves separated for cause: character of discharge.
"12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty.

"§12681. Reserves: discharge authority

"Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned.

"§12682. Reserves: discharge upon becoming ordained minister of religion

"Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment.

"§12683. Reserve officers: limitation on involuntary separation

"(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

"(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) by the approved sentence of a court-martial.

"(b) Subsection (a) does not apply—

"(1) to a separation under section 12684, 14901, or 14907 of this title;

"(2) to a dismissal under section 1161(a) of this title; or

"(3) to a transfer under section 12212, 12213, 14514, or 14515 of this title.

"§12684. Reserves: separation for absence without authority or sentence to imprisonment

"The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

"(1) who has been absent without authority for at least three months; or

"(2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

"§12685. Reserves separated for cause: character of discharge

"A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

"(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

"§12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

"Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system, may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.".

(2) Sections 1162 and 1163 are repealed.

(j) RETIRED PAY.—(1) Chapter 67 is transferred to part II of subtitle E, as added by subsection (a), inserted after chapter 1221 (as added by subsection (i)), and amended to read as follows:

"CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

"Sec.
"12731. Age and service requirements.
"12732. Entitlement to retired pay: computation of years of service.
"12733. Computation of retired pay: computation of years of service.
"12734. Time not creditable toward years of service.
"12735. Inactive status list.
"12736. Service credited for retired pay benefits not excluded for other benefits.
"12737. Limitation on active duty.
"12738. Limitations on revocation of retired pay.
"12739. Computation of retired pay.

"§12731. Age and service requirements

"(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

"(1) is at least 60 years of age;

"(2) has performed at least 20 years of service computed under section 12732 of this title;

"(3) performed the last eight years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and

"(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Transportation, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

"(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

"(A) the person performed active duty during World War I or World War II; or

"(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

"(2) In this subsection:

"(A) The term 'World War I' means the period beginning on April 6, 1917, and ending on November 11, 1918.

"(B) The term 'World War II' means the period beginning on September 9, 1940, and ending on December 31, 1946.

"(C) The term "Korean conflict' means the period beginning on June 27, 1950, and ending on July 27, 1953.

"(D) The term "Berlin crisis' means the period beginning on August 14, 1961, and ending on May 30, 1963.

"(E) The term "Vietnam era' means the period beginning on August 5, 1964, and ending on March 27, 1973.

"(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter

73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

"(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

"§12732. Entitlement to retired pay: computation of years of service

"(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:

"(1) The person's years of service, before July 1, 1949, in the following:

"(A) The armed forces.

"(B) The federally recognized National Guard before June 15, 1933.

"(C) A federally recognized status in the National Guard before June 15, 1933.

"(D) The National Guard after June 14, 1933, if his service therein was continuous from the date of his enlistment in the National Guard, or his Federal recognition as an officer therein, to the date of his enlistment or appointment, as the case may be, in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

"(E) The Naval Reserve Force.

"(F) The Naval Militia that conformed to the standards prescribed by the Secretary of the Navy.

"(G) The National Naval Volunteers.

"(H) The Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or the Nurse Corps Reserve of the Navy, as it existed at any time after February 2, 1901.

"(I) The Army under an appointment under the Act of December 22, 1942 (ch. 805, 56 Stat. 1072).

"(J) An active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

"(i) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

"(ii) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.

"(2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis:

"(A) One point for each day of—

"(i) active service; or

"(ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications.

"(B) One point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32.

"(C) Points at the rate of 15 a year for membership—

"(i) in a reserve component of an armed force,

"(ii) in the Army or the Air Force without component, or

"(iii) in any other category covered by subsection (a)(1) except a regular component.

For the purpose of clauses (A), (B), and (C), service in the National Guard shall be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

"(3) The person's years of active service in the Commissioned Corps of the Public Health Service.

"(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey).

"(b) The following service may not be counted under subsection (a):

"(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

"(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

"(3) Service in the inactive National Guard.

"(4) Service in a non-federally recognized status in the National Guard.

"(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

"(6) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (ch. 192, 31 Stat. 753), as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps established by the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

"(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (I) and (J) of subsection (a)(1).

"§12733. Computation of retired pay: computation of years of service

"For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

"(1) The person's days of active service.

"(2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

"(3) One day for each point credited to the person under clause (B) or (C) of section 12732(a)(2) of this title, but not more than 60 days in any one year.

"(4) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

"§12734. Time not creditable toward years of service

"(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

"(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

"§12735. Inactive status list

"(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

"(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

"(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

"§12736. Service credited for retired pay benefits not excluded for other benefits

"No period of service included wholly or partly in determining a person's right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

"§12737. Limitation on active duty

"A member of the armed forces may not be ordered to active duty solely for the purpose of qualifying the member for retired pay under this chapter.

"§12738. Limitations on revocation of retired pay

"(a) After a person is granted retired pay under this chapter, or is notified in accordance with section 12731(d) of this title that the person has completed the years of service required for eligibility for retired pay under this chapter, the person's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 12731(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person.

"(b) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the person is granted retired pay.

"§12739. Computation of retired pay

"(a) The monthly retired pay of a person entitled to that pay under this chapter is the product of—

"(1) the retired pay base for that person as computed under section 1406(b)(2) or 1407 of this title; and

"(2) 2½ percent of the years of service credited to that person under section 12733 of this title.

"(b) The amount computed under subsection (a) may not exceed 75 percent of the retired pay base upon which the computation is based.

"(c) Amounts computed under this section, if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

(2) Section 1401(a) is amended by striking out formula number 3 in the table set forth in that section.

(3) Section 1405(a)(3) is amended by striking out "section 1333" and "section 1331" and inserting in lieu thereof "section 12733" and "section 12731", respectively.

(4) Section 1406(b) is amended—

(A) by striking out the matter preceding the table and inserting in lieu thereof the following:

"(b) RETIREMENT UNDER SUBTITLE A OR E.—

"(1) DISABILITY, WARRANT OFFICER, AND DOPMA RETIREMENT.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.";

(B) in the table—

(i) by striking out the entry relating to section 1331 (including the matter relating to that entry in the column under the heading "The retired pay base is:"); and

(ii) by redesignating the references to footnotes 3 and 4 so as to refer to footnotes 2 and 3, respectively;

(C) by striking out footnote 2 to the table and redesignating footnotes 3 and 4 as footnotes 2 and 3, respectively; and

(D) by adding at the end the following:

"(2) NON-REGULAR SERVICE RETIREMENT.—In the case of a person who is entitled to retired pay under section 12731 of this title, the retired pay base is the monthly basic pay, determined at the rates applicable on the date when retired pay is granted, of the highest grade held satisfactorily by the person at any time in the armed forces. For purposes of the preceding sentence, the highest grade in which a person served satisfactorily as an officer shall be determined in accordance with section 1370(d) of this title.".

(5) Section 1407 is amended—

(A) in subsection (c)(2)(B), by striking out "chapter 67" and inserting in lieu thereof "chapter 1223"; and

(B) in subsection (f)(2)—

(i) by striking out "CHAPTER 67" in the heading and inserting in lieu thereof "CHAPTER 1223"; and

(ii) by striking out "section 1331" and inserting in lieu thereof "section 12731".

(6) Section 1409(a)(1)(B) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(7) Part II of subtitle A is amended by inserting after chapter 65 the following:

"CHAPTER 67—RETIRED PAY FOR NONREGULAR SERVICE

"Sec.
"1331. Reference to chapter 1223.

"§1331. Reference to chapter 1223

"Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).".

(8) Section 6034 is repealed.

(k) RETIRED GRADE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1223 (as added by subsection (j)) the following:

"CHAPTER 1225—RETIRED GRADE

"Sec.
"12771. Reserve officers: grade on transfer to Retired Reserve.
"12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve.
"12773. Limitation on accrual of increased pay or benefits.
"12774. Retired lists.

"§12771. Reserve officers: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer, other than a commissioned warrant officer, who is transferred to the Retired Reserve is entitled to be placed on the retired list established by section 12774(a) of this title in the highest grade in which he served satisfactorily, as determined by the Secretary concerned and in accordance with section 1370(d), in the armed force in which he is serving on the date of transfer.

"§12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 12774(a) of this title in the grade held by the officer while serving in that position.

"§12773. Limitation on accrual of increased pay or benefits

"Unless otherwise provided by law, no person is entitled to increased pay or other benefits because of sections 12771 and 12772 of this title.

"§12774. Retired lists

"(a) Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under the Secretary's jurisdiction who are in the Retired Reserve.

"(b) The Secretary of the Navy shall maintain a United States Naval Reserve Retired List containing the names of members of the Naval Reserve and the Marine Corps Reserve entitled to retired pay.".

(2) Sections 1374 and 6017 are repealed.

(3)(A) Section 1376 is amended—

(i) by striking out subsection (a); and

(ii) by striking out "(b)" before "The Secretary concerned".

(B) The heading of that section is amended to read as follows:

"§1376. Temporary disability retired lists".

SEC. 303. LAWS RELATING TO RESERVE COMPONENT TRAINING AND EDUCATIONAL ASSISTANCE PROGRAMS.

(a) TRAINING GENERALLY.—Subtitle E, as added by section 101, is amended by adding after part III of such subtitle (as added by that section) the following:

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"Chap.	Sec.
"1601. Training Generally ...	[No present sections]
"1606. Educational Assistance for Members of the Selected Reserve	16131
"1608. Health Professions Stipend Program	16201
"1609. Education Loan Repayments	16301

"CHAPTER 1601—TRAINING GENERALLY

"[No present sections]".

(b) MONTGOMERY GI BILL FOR SELECTED RESERVE.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

"Sec.
"16131. Educational assistance program: establishment; amount.
"16132. Eligibility for educational assistance.
"16133. Time limitations for use of entitlement.
"16134. Termination of assistance.
"16135. Failure to participate satisfactorily; penalties.
"16136. Administration of program.
"16137. Reports to Congress.".

(2) Sections 2131 through 2137 are transferred to chapter 1606, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
2131	16131
2132	16132
2133	16133
2134	16134
2135	16135
2136	16136
2137	16137

(3) Section 16131 (as so redesignated) is amended—

(A) in subsection (c)(3)(B)(i), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304"; and

(B) in subsection (g)(1), by striking out "section 2136(c)" and inserting in lieu thereof "section 16136(c)".

(4) Section 16132 (as so redesignated) is amended—

(A) in subsection (a), by striking out "section 2131" and inserting in lieu thereof "section 16131"; and

(B) in subsection (c), by striking out "sections 2134 and 2135" and inserting in lieu thereof "section 16134 and 16135".

(5) Section 16133 (as so redesignated) is amended in subsection (b)(4)(A) by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304".

(6) Section 16135 (as so redesignated) is amended—

(A) by striking out "section 2132" in subsection (a)(1)(A) and inserting in lieu thereof "section 16132"; and

(B) by striking out "section 2132(a)" in subsection (b)(1)(A) and inserting in lieu thereof "section 16132(a)".

(7) Chapter 106 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"2131. Reference to chapter 1606.
"2138. Savings provision.

"§2131. Reference to chapter 1606

"Provisions of law relating to educational assistance for members of the Selected Reserve under the Montgomery GI Bill program are set forth in chapter 1606 of this title (beginning with section 16131).".

(c) HEALTH PROFESSIONS STIPEND PROGRAM.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1606 (as added by subsection (b)) the following:

"CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

"Sec.
"16201. Financial assistance: health-care professionals in reserve components.
"16202. Reserve service: required active duty for training.
"16203. Penalties and limitations.
"16204. Regulations.

"§16204. Regulations

"This chapter shall be administered under regulations prescribed by the Secretary of Defense.".

(2) Section 2128 is transferred to chapter 1608, as added by paragraph (1), inserted after the table of sections, redesignated as section 16201, and amended by striking out subsection (f).

(3) Section 2129 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16201 (as transferred and redesignated by paragraph (2)), and redesignated as section 16202.

(4)(A) Section 2130 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16202 (as transferred and redesignated by paragraph (3)), redesignated as section 16203, and amended by striking out subsection (c).

(B) The heading of that section is amended to read as follows:

"§16203. Penalties and limitations".

(5) Section 16201, as so redesignated, is amended by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(6) Section 16202, as so redesignated, is amended by striking out "section 2128" both places it appears and inserting in lieu thereof "section 16201".

(7) Chapter 105 is amended—

(A) in the table of subchapters before subchapter I—

(i) by striking out the item relating to subchapter II; and

(ii) by redesignating the item relating to subchapter III so as to refer to subchapter II;

(B) by striking out the heading for subchapter II and the table of sections following that heading; and

(C) by redesignating subchapter III as subchapter II.

(d) EDUCATION LOAN REPAYMENT PROGRAMS.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1608 (as added by subsection (c) the following:

"CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

"Sec.
"16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties.
"16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages.

"§16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties

"(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

"(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); or

"(B) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty specified by the Secretary of Defense. The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 15 percent or $500, whichever is greater, for each year of service.

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 2171 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

"(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section and section 2171 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 2171(a) of this title.".

(2)(A) Section 2172 is transferred to the end of chapter 1609, as added by paragraph (1), and redesignated as section 16302.

(B) The heading of such section is amended to read as follows:

"§16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages".

(e) CONFORMING AMENDMENTS.—Section 2171 is amended as follows:

(1) Subsection (a)(1)(B) is amended by striking out "or" after "(B)".

(2) Subsection (a)(2) is amended—

(A) in the first sentence, by striking out "person for—" and all that follows through "(B) service performed" and inserting in lieu thereof "person for service performed"; and

(B) by striking out the second sentence.

(3) Subsection (b) is amended to read as follows:

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.".

(4) Subsection (e) is amended by striking out "Any individual who transfers from service described in clause (A) or (B) of subsection (a)(2) to service described in the other clause of such subsection" and inserting in lieu thereof "A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 16301 of this title (as described in subsection (a)(2) of that section)".

(5) Subsection (f) is amended—

(A) by inserting "and section 16301 of this title" after "this section"; and

(B) by inserting "and section 16301(a) of this title" after "subsection (a)".

(6) The heading of such section is amended to read as follows:

"§2171. Education loan repayment program: enlisted members on active duty in specified military specialties".

SEC. 304. LAWS RELATING TO RESERVE COMPONENT PROCUREMENT AND EQUIPMENT.

(a) ADDITION OF NEW PART.—(1) Subtitle E, as added by section 101, is amended by adding after part IV of such subtitle (as added by section 303) the following:

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"Chap.	Sec.
"1801. Issue of Serviceable Material to Reserve Components	[No present sections]
"1803. Facilities for Reserve Components	18231
"1805. Miscellaneous Provisions	18501

"CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

"[No present sections]".

(b) FACILITIES FOR RESERVE COMPONENTS.—(1) Chapter 133 is transferred to the end of part V of subtitle E, as added by subsection (a), and redesignated as chapter 1803.

(2) The sections of that chapter are redesignated as follows:

Section	Redesignated section
2231	18231
2232	18232
2233	18233
2233a	18233a
2234	18234
2235	18235
2236	18236
2237	18237
2238	18238
2239	18239

(3) The items in the table of sections at the beginning of such chapter are revised to reflect the redesignations made by paragraph (2).

(4) Section 18233 (as redesignated by paragraph (2)) is amended by striking out "sections 2233a, 2234, 2235, 2236, and 2238" in subsection (a) and inserting in lieu thereof "sections 18233a, 18234, 18235, 18236, and 18238".

(5) Section 18233a (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233" and inserting in lieu thereof "section 18233"; and

(B) in subsection (b), by striking out "section 2233(a)" and inserting in lieu thereof "section 18233(a)".

(6) Section 18234 (as redesignated by paragraph (2)) is amended by striking out "section 2233" and inserting in lieu thereof "section 18233".

(7) Section 18235 (as redesignated by paragraph (2)) is amended by striking out "section 2233(a)(1)" in subsection (a)(1) and inserting in lieu thereof "section 18233".

(8) Section 18236 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a)—

(i) by striking out "section 2233" in the first sentence and inserting in lieu thereof "section 18233"; and

(ii) by striking out "section 2233(a)(3) or (4)" in the second sentence and inserting in lieu thereof "paragraph (3) or (4) of section 18233(a)";

(B) in subsection (b)—

(i) by striking out "clause (4) or (5) of section 2233(a)" in the matter preceding paragraph (1) and inserting in lieu thereof "paragraph (4) or (5) of section 18233(a)"; and

(ii) by striking out "section 2233(e)" in paragraph (2) and inserting in lieu thereof "section 18233(e)"; and

(C) in subsection (c), by striking out "section 2233" and inserting in lieu thereof "section 18233".

(9) Section 18237 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233(a)(2), (3) and (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)"; and

(B) in subsection (b), by striking out "section 2233(a)(2), (3) or (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)".

(10) Section 18239 (as redesignated by paragraph (2)) is amended by striking out "section 2233" both places it appears and inserting in lieu thereof "section 18233".

(11) Part IV of subtitle A is amended by inserting after chapter 131 the following:

"CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

"Sec.
"2231. Reference to chapter 1803.

"§2231. Reference to chapter 1803

"Provisions of law relating to facilities for reserve components are set forth in chapter 1803 of this title (beginning with section 18231).".

(c) MISCELLANEOUS PROVISIONS.—(1) Part V of subtitle E, as added by subsection (a), is amended by adding after chapter 1803, as transferred by subsection (b), the following:

"CHAPTER 1805—MISCELLANEOUS PROVISIONS

"Sec.
"18501. Reserve components: personnel and logistic support by military departments.
"18502. Reserve components: supplies, services, and facilities.

"§18501. Reserve components: personnel and logistic support by military departments

"The Secretary concerned is responsible for providing the personnel, equipment, facilities, and other general logistic support necessary to enable units and Reserves in the Ready Reserve of the reserve components under his jurisdiction to satisfy the training requirements and mobilization readiness requirements for those units and Reserves as recommended by the Secretary concerned and by the Chairman of the Joint

Chiefs of Staff and approved by the Secretary of Defense, and as recommended by the Commandant of the Coast Guard and approved by the Secretary of Transportation when the Coast Guard is not operated as a service of the Navy.

"§18502. Reserve components: supplies, services, and facilities

"(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

"(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned may issue supplies of the armed forces under his jurisdiction to the reserve components under his jurisdiction, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.".

(2) Section 2540 is repealed.

SEC. 305. LEGISLATIVE CONSTRUCTION.

(a) REFERENCES TO TRANSFERRED OR REPLACED PROVISIONS.—A reference to a provision of title 10, United States Code, transferred or replaced by the provisions of sections 301 through 304 (including a reference in a regulation, order, or other law) shall be treated as referring to that provision as transferred or to the corresponding provision as so enacted by this title.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 301 through 304 shall continue in effect under the corresponding provision so enacted until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken, or a right that matured, under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 301 through 304 shall be treated as having been taken, or having matured, under the corresponding provision so enacted.

TITLE IV—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 401. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE.

(a) TABLE OF SUBTITLES.—The table of subtitles preceding subtitle A is amended by adding at the end the following new item:

"E. Reserve Components ..... *10001".*

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 2 is amended by striking out the item relating to section 115b.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to section 123 and inserting in lieu thereof the following:

"123. Authority to suspend officer personnel laws during war or national emergency.".

(3) The table of sections at the beginning of chapter 31 is amended by striking out the items relating to sections 510, 511, 512, and 517.

(4) The table of sections at the beginning of chapter 32 is amended—

(A) by striking out the item relating to section 524; and

(B) by striking out "524," in the item relating to section 527.

(5) The table of sections at the beginning of subchapter V of chapter 36 is amended by striking out the item relating to section 644.

(6) The table of sections at the beginning of chapter 37 is amended by striking out the item relating to section 652.

(7) The table of sections at the beginning of chapter 39 is amended—

(A) by striking out the item relating to section 672 and inserting in lieu thereof the following:

"672. Reference to chapter 1209."; and

(B) by striking out the items relating to sections 673 through 686 and section 689.

(8) The table of sections at the beginning of chapter 41 is amended by striking out the item relating to section 715.

(9) The table of sections at the beginning of chapter 53 is amended by striking out the item relating to section 1033.

(10) The table of sections at the beginning of chapter 59 is amended by striking out the items relating to sections 1162 and 1163.

(11) The table of sections at the beginning of chapter 69 is amended—

(A) by striking out the item relating to section 1374; and

(B) by striking out the item relating to section 1376 and inserting in lieu thereof the following:

"1376. Temporary disability retired lists.".

(12) The table of sections at the beginning of chapter 101 is amended by striking out the item relating to section 2001.

(13) The table of sections at the beginning of chapter 109 is amended by striking out the items relating to sections 2171 and 2172 and inserting in lieu thereof the following:

"2171. Education loan repayment program: enlisted members on active duty in specified military specialties.".

(14) The table of sections at the beginning of subchapter I of chapter 152 is amended by striking out the item relating to section 2540.

(c) CROSS-REFERENCE AMENDMENTS—

(1) Section 101(47) is amended by striking out "672(a), 673, 673b, 673c, 688, 3500, or 8500" and inserting in lieu thereof "688, 12301(a), 12302, 12304, 12305, or 12406".

(2) Section 113(c)(3) is amended by striking out "chapters 51, 337, 361, 363, 549, 573, 837, 861, and 863 of this title, as far as they apply to reserve officers" and inserting in lieu thereof "chapters 1219 and 1401 through 1411 of this title ".

(3) Section 523(b)(1) is amended—

(A) in subparagraph (B), by striking out "section 265" and all that follows through "of this title" and inserting in lieu thereof "sections 10211, 10302 through 10305, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(4) Section 527 is amended by striking out "524," in the text and in the heading.

(5) Section 641(1) is amended—

(A) in subparagraph (B), by striking out "section 175" and all that follows through "of this title" and inserting in lieu thereof "sections 3038, 8038, 10211, 10301 through 10305, 10501, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(6) Sections 1201, 1202, and 1203 are each amended by striking out "section 270(b)" and inserting in lieu thereof "section 10148(a)".

(7)(A) Section 1076(b)(2)(A) is amended by striking out "under chapter 67 of this title" and inserting in lieu thereof "under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(B) Section 1370(a)(1) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(8) Section 1482(f)(2) is amended by striking out "section 1332" and "section 1331" and inserting in lieu thereof "section 12732" and "12731", respectively.

(d) SURVIVOR BENEFIT PLAN.—Subchapter II of chapter 73 is amended as follows:

(1) Section 1447(14) is amended by striking out "chapter 67 of this title" and inserting in lieu thereof "chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) The following provisions are amended by striking out "section 1331(d)" and inserting in lieu thereof "section 12731(d)": sections 1447(2)(C), 1448(a)(2)(B), 1448(f)(1)(A), and 1448(f)(1)(B).

SEC. 402. AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle B, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 337, 361, and 363.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 305 is amended by striking out the item relating to section 3040.

(2) The table of sections at the beginning of chapter 307 is amended by striking out the items relating to sections 3076 through 3080.

(3) The table of sections at the beginning of chapter 331 is amended by striking out the items relating to section 3212 and sections 3217 through 3225.

(4) The table of sections at the beginning of chapter 333 is amended by striking out the items relating to sections 3259, 3260, and 3261.

(5) The table of sections at the beginning of chapter 341 is amended by striking out the items relating to sections 3495 through 3502.

(6) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to sections 3541 and 3542.

(7) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3686.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 3038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 3961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 4342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 403. AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—

(1) The table of chapters at the beginning of subtitle C is amended by striking out the items relating to chapters 519, 531, 541, and 549.

(2) The table of chapters at the beginning of part I of subtitle C is amended by striking out the item relating to chapter 519.

(3) The table of chapters at the beginning of part II of subtitle C is amended by striking out the items relating to chapters 531, 541, and 549.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 533 is amended by striking out the items relating to sections 5456, 5457, and 5458.

(2) The table of sections at the beginning of chapter 539 is amended by striking out the item relating to section 5600.

(3) The table of sections at the beginning of chapter 555 is amended by striking out the items relating to sections 6017 and 6034.

(4) The table of sections at the beginning of chapter 573 is amended by striking out the items relating to sections 6391, 6392, 6397, 6403, and 6410.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 6389(a) is amended by striking out "section 1005" and inserting in lieu thereof "section 12645".

(2) Section 6954(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)"

(d) REPEAL OF SECTION REDUNDANT WITH SECTION 741.—

(1) Section 5506 is repealed.

(2) The table of sections at the beginning of chapter 535 is amended by striking out the item relating to section 5506.

SEC. 404. AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle D, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 837 and 863.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 807 is amended by striking out the items relating to sections 8076 through 8080.

(2) The table of sections at the beginning of chapter 831 is amended by striking out the items relating to section 8212 and sections 8217 through 8225.

(3) The table of sections at the beginning of chapter 833 is amended by striking out the items relating to sections 8259, 8260, and 8261.

(4) The table of sections at the beginning of chapter 841 is amended by striking out the items relating to sections 8495 through 8502.

(5) The table of sections at the beginning of chapter 843 is amended by striking out the items relating to sections 8541 and 8542.

(6) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8686.

(7) The table of sections at the beginning of chapter 861 is amended by striking out the items relating to sections 8819 and 8820.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 8038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 8961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 9342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)"

SEC. 405. AMENDMENTS TO SUBTITLE E OF TITLE 10, UNITED STATES CODE.

(a) CHAPTER 1203.—Section 12102 (as transferred and redesignated by section 302(b)(2)) is amended by striking out "section 3261 or 8261" in subsection (a) and inserting in lieu thereof "section 12107".

(b) CHAPTER 1205.—Sections of chapter 1205 (as transferred and redesignated by section 302(c)(2)) are amended as follows:

(1) Section 12203 is amended by striking out "3352, or 8352" in subsection (a) and inserting in lieu thereof "12212, or 12213".

(2) Sections 12212 and 12213 are amended by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is" in subsection (a).

(c) CHAPTER 1209.—Sections of chapter 1209 (as transferred and redesignated by section 302(e)(2)) are amended as follows:

(1) Section 12301 is amended—

(A) in subsection (b), by striking out "or Territory" and all that follows through the period at the end and inserting in lieu thereof "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard)."; and

(B) in subsection (d), by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is".

(2) Section 12304 is amended—

(A) by striking out "section 673(a)" in subsection (a) and inserting in lieu thereof "section 12302(a)";

(B) by striking out "section 268(b)" in subsection (a) and inserting in lieu thereof "section 10143(a)"; and

(C) by striking out "section 3500 or 8500" in subsection (b) and inserting in lieu thereof "section 12406".

(3) Section 12305 is amended by striking out "section 672, 673, or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12301, 12302, or 12304".

(4) Section 12306 is amended by striking out "section 672" in subsection (a) and inserting in lieu thereof "section 12301".

(5) Section 12307 is amended by striking out "section 672(a) or 688", "section 1001(b)", and "chapter 67" and inserting in lieu thereof "section 688 or 12301(a)", "section 12641(b)", and "chapter 1223", respectively.

(6) Section 12308 is amended by striking out "chapter 67" and "section 1332(b)" and inserting in lieu thereof "chapter 1223" and "section 12732(b)", respectively.

(7) Section 12310 is amended by striking out "section 672(d)" in subsection (a) and inserting in lieu thereof "section 12301(d)".

(8) Section 12312 is amended by striking out "section 679(a)" in subsections (a) and (b) and inserting in lieu thereof "section 12311(a)".

(9) Section 12318 is amended—

(A) by striking out "section 673 or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12302 or 12304"; and

(B) by striking out "section 678" in subsection (b) and inserting in lieu thereof "section 12310".

(10) Section 12319(d) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(11) Section 12320 is amended by striking out "section -3353, 5600, or 8353" and inserting in lieu thereof "section 12207".

(d) CHAPTER 1219.—Sections of chapter 1219 (as transferred and redesignated by section 302(h)) are amended as follows:

(1) Section 12642 is amended—

(A) by striking out "section 1332(a)(2)" in subsection (a) and inserting in lieu thereof "section 12732(a)(2)"; and

(B) by striking out "section 1005" in subsection (b) and inserting in lieu thereof "section 12645".

(2) Section 12645 is amended by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsection (a) and inserting in lieu thereof "chapter 573, 1407, 1409, or 1411".

(3) Section 12646 is amended—

(A) by striking out "section 1332" each place it appears in subsections (a) and (b) and inserting in lieu thereof "section 12732";

(B) by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsections (a) and (b) and inserting in lieu thereof "chapter 573, 1407, or 1409"; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) A reserve commissioned officer on active duty (other than for training) or full-time National Guard duty (other than full-time National Guard duty for training only) who, on the date on which the officer would otherwise be removed from an active-status under section 6389, 14513, or 14514 of this title or section 740 of title 14, is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title may, in the discretion of the Secretary concerned and subject to paragraph (2), be retained on that duty for a period of not more than two years.

"(2) An officer may be retained on active duty or full-time National Guard duty under paragraph (1) only if—

"(A) at the end of the period for which the officer is retained the officer will be qualified for retirement under section 3911, 6323, or 8911 of this title; and

"(B) the officer will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14.

"(3) An officer who is retained on active duty or full-time National Guard duty under this section may not be removed from an active status while on that duty.".

(4) Section 12647 is amended by striking out "chapters 337, 363, 573, 837, and 863" and inserting in lieu thereof "chapters 573, 1407, and 1409".

SEC. 406. AMENDMENTS TO TITLES 32 AND 37, UNITED STATES CODE.

(a) TITLE 32, UNITED STATES CODE.—Title 32, United States Code, is amended as follows:

(1) Section 107(c) is amended by striking out "section 3496 or 8496" and inserting in lieu thereof "section 12402".

(2) Section 307(a)(3) is amended by striking out "and sections 8365 and 8366 of title 10".

(3) Section 323(c) is amended by striking out "section 3259, 3352(a), 8259, or 8352(a)" and inserting in lieu thereof "section 12105, 12212(a), or 12213(a)".

(4) The items relating to sections 309 and 310 in the table of sections at the beginning of chapter 3 are amended to read as follows:

"309. Federal recognition of National Guard officers: officers promoted to fill vacancies.

"310. Federal recognition of National Guard officers: automatic recognition.".

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 204(a)(2) is amended by striking out "section 3021, 3496, 3541, 8021, 8496, or 8541" and inserting in lieu thereof "section 10302, 10305, 10502, or 12402".

(2) Section 205(e)(2) is amended—

(A) by striking out "section 511(b) or 511(d)" in subparagraph (A) and inserting in lieu thereof "section 12103(b) or 12103(d)"; and

(B) by striking out "chapter 39" in subparagraph (B) and inserting in lieu thereof "chapter 1209".

(3) Section 905 is amended—

(A) by striking out "chapter 549" in subsection (a) and inserting in lieu thereof "chapter 1405"; and

(B) by striking out "section 5908" in subsection (b) and inserting in lieu thereof "section 14308(b)".

SEC. 407. AMENDMENTS TO OTHER LAWS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 5517(d)(2) is amended by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10"

(2) Section 6323(b) is amended—

(A) in paragraph (1), by striking out "section 261 of title 10" and inserting in lieu thereof "section 10101 of title 10".

(B) in paragraph (2)(A), by striking out "3500, or 8500 of title 10" and inserting in lieu thereof "or 12406 of title 10".

(3) Sections 8332(c)(2)(B) and 8411(c)(2)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(4) Sections 8401(30) and 8456(a)(1)(A) are amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(b) TITLE 14, UNITED STATES CODE.—Title 14, United States Code, is amended as follows:

(1) Section 41a(a) is amended by striking out "section 679 of title 10" and inserting in lieu thereof "section 12311 of title 10".

(2) Section 271(e) is amended by striking out "section 593 of title 10" and inserting in lieu thereof "section 12203 of title 10".

(3) Section 712(c)(1) is amended by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10".

(4) Section 713 is amended by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(5) Sections 740(c) and 741(b) are amended by striking out "section 1006 of title 10" and inserting in lieu thereof "section 12646 of title 10".

(c) INTERNAL REVENUE CODE OF 1986.—Section 219(g)(6)(A) of the Internal Revenue Code of 1986 is amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(d) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) Sections 1965(5)(B), 1965(5)(C), and 1968(a)(4)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) Section 3002 is amended—

(A) in paragraph (4), by striking out "section 268(b) of title 10" and inserting in lieu thereof "section 10143(a) of title 10"; and

(B) in paragraph (6), by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(e) PUBLIC LAW 99-661.—Section 403(b)(1) of Public Law 99-661 (10 U.S.C. 521 note) is amended—

(1) in subparagraph (B), by striking out "section 265" and all that follows through "of title 10" and inserting in lieu thereof "section 10148(a), 10211, 10302 through 10305, 12301(a), or 12402 of title 10";

(2) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(3) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(f) MILITARY SELECTIVE SERVICE ACT.—Section 6 of the Military Selective Service Act (50 U.S.C. App. 456) is amended—

(1) in subsection (c)(2)(A), by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10";

(2) in subsection (c)(2)(D), by striking out "section 511(b) of title 10" and inserting in lieu thereof "section 12103 of title 10"; and

(3) in subsection (d)(1), by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

TITLE V—TRANSITION PROVISIONS

SEC. 501. CONTINUATION ON THE RESERVE ACTIVE-STATUS LIST OF CERTAIN RESERVE COLONELS OF THE ARMY AND AIR FORCE.

(a) CONTINUATION UNDER OLD LAW.—Except as provided in subsection (b), a reserve officer of the Army or the Air Force who, on the effective date of this Act—

(1) is subject to placement on the reserve active-status list of the Army or the Air Force; and

(2)(A) holds the reserve grade of colonel, (B) is on a list of officers recommended for promotion to the reserve grade of colonel, or (C) has been nominated by the President for appointment in the reserve grade of colonel,

shall continue to be subject to mandatory transfer to the Retired Reserve or discharge from the officer's reserve appointment under section 3851 or 8851 of title 10, United States Code, as in effect on the day before the effective date of this Act.

(b) EXEMPTION.—This section does not apply to an officer who is—

(1) sooner transferred from an active status or discharged under some other provision of law;

(2) promoted to a higher grade, unless the officer was on a list of officers recommended for promotion to the reserve grade of colonel before the effective date of this Act; or

(3) continued on the reserve active-status list under section 14701 of title 10, United States Code, as added by this Act.

SEC. 502. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR ARMY AND AIR FORCE OFFICERS.

(a) PROMOTIONS TO FILL VACANCIES.—A reserve commissioned officer of the Army or Air Force (other than a commissioned warrant officer) who, on the day before the effective date of this Act, is recommended for promotion to fill a vacancy in the Army Reserve or the Air Force Reserve under section 3383, 3384, 8372, or 8373 of title 10, United States Code, as in effect on the day before the effective date of this Act, in the next higher reserve grade shall be considered to have been recommended for promotion to that grade by a vacancy promotion board under section 14101(a)(2) of title 10, United States Code, as added by this Act.

(b) PROMOTIONS OTHER THAN TO FILL VACANCIES.—A reserve officer of the Army or Air Force who, on the day before the effective date of this Act, is recommended for promotion under section 3366, 3367, 3370, 3371, 8366, or 8371 of title 10, United States Code, as in effect on the day before the effective date of this Act, to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion by a mandatory promotion board convened under section 14101(a)(1) of title 10, United States Code, as added by this Act.

(c) OFFICERS FOUND QUALIFIED FOR PROMOTION TO FIRST LIEUTENANT.—A reserve officer of the Army or Air Force who, on the effective date of the Act, holds the grade of second lieutenant and has been found qualified for promotion to the grade of first lieutenant in accordance with section 3365, 3382, or 8365 of title 10, United States Code, as in effect on the day before the effective date of this Act, shall be promoted to that grade on the date on which the officer would have been promoted under the provisions of chapter 337 or 837 of such title, as in effect on the day before the effective date of the Act, unless sooner promoted under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force under section 14308(b) of title 10, United States Code, as added by this Act.

(d) OFFICERS ONCE FAILED OF SELECTION.—(1) A reserve officer of the Army in the grade of first lieutenant, captain, or major who, on the day before the effective date of this Act, has been considered once but not recommended for promotion to the next higher reserve grade under section 3366 or 3367 of title 10, United States Code, or a reserve officer of the Air Force in the grade of first lieutenant, captain, or major who, on the day before the effective date of this Act, is a deferred officer within the meaning of section 8368 of such title, shall be considered to have been considered once but not selected for promotion by a board convened under section 14101(a)(1) of title 10, United States Code, as added by this Act. If the officer is later considered for promotion by a selection board convened under that section and is not selected for promotion (or is selected for promotion but declines to accept the promotion), the officer shall be considered for all purposes to have twice failed of selection for promotion.

(2) In the case of a reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this Act, is in the grade of first lieutenant, captain, or major and whose name has been removed, under the provisions of section 3363(f) of title 10, United States Code, from a list of officers recommended for promotion or who has previously not been promoted because the President declined to appoint the officer in the next higher grade under section 8377 of such title as in effect on the day before the effective date of the Act, or whose name was removed from a list of officers recommended for promotion to the next higher grade because the Senate did not consent to the officer's appointment, if the officer is later considered for promotion by a selection board convened by section 14101(a)(1) of title 10, United States Code, as added by this Act, and (A) is not selected for promotion, (B) is selected for promotion but removed from the list of officers recommended or approved for promotion, or (C) is selected for promotion but declines to accept the promotion, the officer shall be considered for all purposes to have twice failed of selection for promotion.

(e) OFFICERS TWICE FAILED OF SELECTION.—A reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this Act, is in the grade of first lieutenant, captain, or major and on that date is subject to be treated as prescribed in section 3846 or 8846 of title 10, United States Code, shall continue to be governed by that section as in effect on the day before the effective date of this Act.

(f) OFFICERS WITH APPROVED PROMOTION DECLINATIONS IN EFFECT.—A reserve officer of the Army who, on the day before the effective date of this Act, has declined a promotion under subsection (f) or (g) of section 3364 of title 10, United States Code, shall while carried on the reserve active-status list be subject to the provisions of subsections (h), (i), and (j) of such section, as in effect on the day before the effective date of the Act, except that the name of an officer to whom this section applies shall be placed on a promotion list under section 14308(a) of title 10, United States Code (as added by this Act), and, at the end of the approved period of declination, shall be considered to have failed of promotion if the officer again declines to accept the promotion.

(g) COVERED OFFICERS.—This section applies to reserve officers of the Army and Air Force who—

(1) on the day before the effective date of this Act are in an active status; and

(2) on the effective date of this Act are subject to placement on the reserve active-status list of the Army or the Air Force.

SEC. 503. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR NAVY AND MARINE CORPS OFFICERS.

(a) RECOMMENDATIONS FOR PROMOTION.—An officer covered by this section who, on the day before the effective date of the Act, has been recommended for promotion to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion to that grade under section 14101(a) of title 10, United States Code, as added by this Act.

(b) FAILURES OF SELECTION.—An officer covered by this section who, on the day before the effective date of this Act, is considered to have failed of selection for promotion one or more

times under chapter 549 of title 10, United States Code, to a grade below captain, in the case of a reserve officer of the Navy, or to a grade below colonel, in the case of a reserve officer of the Marine Corps, shall be subject to chapters 1405 and 1407 of title 10, United States Code, as added by this Act, as if such failure or failures had occurred under the provisions of those chapters.

(c) OFFICERS OTHER THAN COVERED OFFICERS RECOMMENDED FOR PROMOTION.—A reserve officer of the Navy or Marine Corps who on the day before the effective date of this Act (1) has been recommended for promotion in the approved report of a selection board convened under chapter 549 of title 10, United States Code, and (2) was on the active-duty list of the Navy or Marine Corps may be promoted under that chapter, as in effect on the day before the effective date of this Act.

(d) OFFICERS FOUND QUALIFIED FOR PROMOTION TO LIEUTENANT (JUNIOR GRADE) OR FIRST LIEUTENANT.—A covered officer who, on the effective date of this Act, holds the grade of second lieutenant and has been found qualified for promotion in accordance with section 5908 or 5910 of title 10, United States Code, as in effect on the day before the effective date of this Act, shall be promoted on the date on which the officer would have been promoted under the provisions of chapter 549 of such title, as in effect on the day before the effective date of the Act, unless sooner promoted under regulations prescribed by the Secretary of the Navy under section 14307(b) of such title, as added by this Act.

(e) OFFICERS WHOSE NAMES HAVE BEEN OMITTED FROM A LIST FURNISHED TO A SELECTION BOARD.—A covered officer whose name, as of the effective date of this Act, had been omitted by administrative error from the list of officers furnished the most recent selection board to consider officers of the same grade and component, shall be considered by a special selection board established under section 14502 of title 10, United States Code, as added by this Act. If the officer is selected for promotion by that board, the officer shall be promoted as specified in section 5904 of title 10, United States Code, as in effect on the day before the effective date of this Act.

(f) COVERED OFFICERS.—Except as provided in subsection (c), this section applies to any reserve officer of the Navy or Marine Corps who (1) before the effective date of this Act is in an active status, and (2) on the effective date of this Act is subject to placement on the reserve active-status list of the Navy or Marine Corps.

SEC. 504. DELAYS IN PROMOTIONS AND REMOVALS FROM PROMOTION LIST.

(a) DELAYS IN PROMOTIONS.—(1) A delay in a promotion that is in effect on the day before the effective date of this Act under the laws and regulations in effect on that date shall continue in effect on and after that date as if the promotion had been delayed under section 14311 of title 10, United States Code, as added by this Act.

(2) The delay of the promotion of a reserve officer of the Army or the Air Force which was in effect solely to achieve compliance with limitations set out in section 524 of title 10, United States Code or with regulations prescribed by the Secretary of Defense with respect to sections 3380(c) and 8380(c) of title 10, United States Code, as in effect on the day before the effective date of this Act, shall continue in effect as if the promotion had been delayed under section 14311(e) of such title, as added by this Act.

(b) REMOVALS FROM LIST.—An action that was initiated before the effective date of this Act under the laws and regulations in effect before that date to remove the name of an officer from a promotion list or from a list of officers recommended or approved for promotion shall continue on and after such date as if such action had been initiated under section 14110(d) or 14310, as appropriate, of title 10, United States Code, as added by this Act.

SEC. 505. MINIMUM SERVICE QUALIFICATIONS FOR PROMOTION.

During the five-year period beginning on the effective date of this Act, the Secretary of the Army and the Secretary of the Air Force may waive the provisions of section 14304 of title 10, United States Code, as added by this Act. The Secretary may, in addition, during any period in which such a waiver is in effect, establish minimum periods of total years of commissioned service an officer must have served to be eligible for consideration for promotion to the grade of captain, major, or lieutenant colonel by boards convened under section 14101(a) of title 10, United States Code, as added by this Act.

SEC. 506. ESTABLISHMENT OF RESERVE ACTIVE-STATUS LIST.

(a) SIX-MONTH DEADLINE.—Not later than six months after the effective date of this Act, the Secretary of the military department concerned shall ensure that—

(1) all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the reserve active-status list of their Armed Force under section 14002 of title 10, United States Code, as added by this Act, shall be placed on the list for their armed force and in their competitive category; and

(2) the relative seniority of those officers on each such list shall be established.

(b) REGULATIONS.—The Secretary concerned shall prescribe regulations for the establishment of relative seniority. The Secretary of the Army and the Secretary of the Air Force shall, in prescribing such regulations, provide for the consideration of both promotion service established under section 3360(b) or 8360(e) of title 10, United States Code, as in effect on the day before the effective date of this Act, and total commissioned service established under section 3360(c) or 8366(e) of such title, as in effect on the day before the effective date of this Act. An officer placed on a reserve active-status list in accordance with this section shall be considered to have been on the list as of the effective date of this Act.

SEC. 507. PRESERVATION OF RELATIVE SENIORITY UNDER THE INITIAL ESTABLISHMENT OF THE RESERVE ACTIVE-STATUS LIST.

In order to maintain the relative seniority among reserve officers of the Army, Navy, Air Force, or Marine Corps as determined under section 506 of this Act, the Secretary of the military department concerned may, during the one-year period beginning on the effective date of this Act, adjust the date of rank of any reserve officer of such Armed Force who was in an active status but not on the active-duty list on such effective date.

SEC. 508. GRADE ON TRANSFER TO THE RETIRED RESERVE.

In determining the highest grade held satisfactorily by a person at any time in the Armed Forces for the purposes of paragraph (2) of section 1406(b) of title 10, United States Code, as added by this Act, the requirement for satisfactory service on the reserve active-status list contained in section 1370(d) of title 10, United States Code, as added by this Act, shall apply only to reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion under chapter 36 of that title or under chapter 1405 of that title, as added by this Act, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after the effective date of this Act.

SEC. 509. RIGHTS FOR OFFICERS WITH OVER THREE YEARS SERVICE.

A reserve officer of the Army, Navy, Air Force, or Marine Corps who was in an active status on the day before the effective date of this Act and who was subject to placement of the reserve active-status list on the effective date of this Act may not be discharged under section 14503 of title 10, United States Code, as added by this Act, until on or after the day on which that officer completes three years of continuous service as a reserve commissioned officer.

SEC. 510. MANDATORY SEPARATION FOR AGE FOR CERTAIN RESERVE OFFICERS OF THE NAVY AND MARINE CORPS.

(a) SAVINGS PROVISIONS FOR REQUIRED SEPARATION AGE.—A reserve officer of the Navy or the Marine Corps—

(1) who—

(A) on the effective date of this Act is in an active status, and

(B) on the day before the effective date of this Act was an officer described in section 6389(e), 6397(a), 6403(a), or 6403(b) of title 10, United States Code; and

(2) who, on or after the effective date of this Act is subject to elimination from an active status under any provision of such title,

is entitled to be treated as that officer would have been treated under section 6397 or 6403 as applicable, as in effect on the day before the effective date of this Act, if that treatment would result in the date for the officer's separation from an active status being a later date than the date established under the law in effect on or after the effective date of this Act.

(b) SAVINGS PROVISIONS FOR MANDATORY SEPARATION FOR AGE.—An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before January 1, 1953, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 62 years of age, but can complete this service by the time he becomes 64 years of age, may be retained in an active status not later than the date he becomes 64 years of age.

(c) An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before the effective date of this Act, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 60 years of age, but can complete this service by the time he becomes 62 years of age, may be retained in an active status not later than the date he becomes 62 years of age.

TITLE VI—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

SEC. 601. EFFECTIVE DATE.

(a) GENERAL EFFECTIVE DATE.—Except for section 205, this Act and the amendments made by this Act shall take effect on the first day of the ninth month that begins after the date of the enactment of this Act.

(b) REGULATIONS.—The authority to prescribe regulations under the amendments made by this Act shall take effect on the date of the enactment of this Act.

SEC. 602. PRESERVATION OF SUSPENDED STATUS OF LAWS SUSPENDED AS OF EFFECTIVE DATE.

If a provision of law that is in a suspended status on the day before the effective date of this Act is transferred or amended by this Act, the suspended status of that provision is not affected by that transfer or amendment.

SEC. 603. PRESERVATION OF PRE-EXISTING RIGHTS, DUTIES, PENALTIES, AND PROCEEDINGS.

Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Act.

The SPEAKER pro tempore (Mr. McDERMOTT). Pursuant to the rule, the

gentlewoman from Maryland [Mrs. BYRON] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland [Mrs. BYRON].

GENERAL LEAVE

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

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

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. BYRON. Mr. Speaker, today the Congress has reached a legislative landmark that has been anxiously awaited by Reserve officers throughout the Nation. Today we will address the Reserve Officer Personnel Management Act [ROPMA].

ROPMA is the companion legislation for Reserve officers to the Defense Officer Personnel Management Act which comprehensively revised the statutes relating to the appointment, promotion, tenure, and separation of regular commissioned officers when adopted in 1980. At the time, the Congress recognized that the officer management statutes that applied to Reserve officers would benefit from the same type of standardization and reform of personnel policy provided to active duty officers in DOPMA. The Subcommittee on Military Personnel and Compensation continued to emphasize the need to resolve outstanding issues in a hearing in 1988. During a hearing this August, we received the final confirmation that the services are now in agreement and all remaining points of controversy are resolved.

The production of a bill that was ready for consideration by the Congress was, for good reason, long in coming. The bill is extremely complex and the final version required immense effort to negotiate a package that met the officer personnel management requirements of all the Reserve components. The final product was worth the wait. For years the management of Reserve officers received little attention. I suspect this neglect can be attributed to the realization that the Reserve components played a relatively unimportant role in defense planning. This is a new era. The Reserve components of our Nation play a critical role in America's defense. One only has to look at the vital role played by reservists in the Persian Gulf war to understand how important it is to overhaul Reserve officer personnel policies. In the words of Secretary Cheney, "We couldn't have done it without them."

The bill before us is a committee print of the bill introduced by the gentleman from Mississippi [Mr. MONTGOMERY] except that it includes technical amendments identified by committee staff, the Department of Defense, and the House Legislative Counsel.

Major features of ROPMA:

Consolidates all the provisions concerning reserves in title X into one subtitle.

Establishes a reserve active-status list of Reserve officers by service in seniority order.

Standardizes the promotion system among the services to more closely resemble DOPMA procedures while preserving Reserve component promotion systems uniquely required by the Reserves.

Offers the service secretaries new flexibility to manage the promotions.

Protects reservists called-up to active duty by retaining them in the reserve promotion system for 2 years.

Gives reservists opportunity to voluntarily delay promotions in lieu promoting them out of their jobs.

Gives new authority to the service secretaries to either continue officers in an active status, or selectively remove them from active status depending on the management needs of the service.

Establishes age 60 as the common maximum age for all Reserve officers.

Mr. Speaker, in closing, I would like to thank the gentleman from Mississippi [Mr. MONTGOMERY] for all his assistance. He has been working to resolve this complex and often controversial issue for a number of years. I commend the committee staff, and especially Jim Schweiter should be commended for all his diligent and technical work. The report is 422 pages long. He spent all of July and August working on this baby, and today we are ready for its birth.

The fact that the services are now able to come to Congress with an agreed package is a direct result of the expertise and the perseverance of the gentleman from Mississippi [Mr. MONTGOMERY] over a number of years.

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

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

Mr. Speaker, the Reserve Officer Personnel Management Act has been years in the making and is an important piece of legislation.

The fact that we are taking up this measure at the end of an extremely busy congressional session is just one indicator of the importance the Armed Services Committee attaches to it.

This legislation revises and standardizes the way in which National Guard and Reserve officers are appointed, promoted, and separated.

The bill before us is the product of compromise. The compromise has been built on a solid base of the common points in existing law that can be found among different approaches by the services for managing the officers of Reserve components.

This legislation provides a substantive improvement over the existing systems. It creates new mechanisms by which the Department of Defense can better integrate the quality officers of the Reserve components into the total force.

Mr. Speaker, I would urge Members of the House to support H.R. 4481.

Mr. Speaker, I also want to take this opportunity to compliment my good friend the chairman of the Subcommittee on Military Personnel and Compensation, BEVERLY BYRON, for leading the effort to bring this legislation to the floor. This is just one more example of the concern she has demonstrated for our military service members during her tenure on the Armed Services Committee. Their lives have been greatly improved through her efforts.

It has truly been a pleasure to serve with BEV on the Armed Services Committee, and her presence will certainly be missed in the next Congress. However, I know she will leave with pride in a job well done and the knowledge that she has made meaningful contributions to military personnel during her many years in Congress.

Mr. Speaker, I would also like to acknowledge the great work of the gentleman from Mississippi [Mr. MONTGOMERY], a member of the committee and also the chairman of the Committee on Veterans' Affairs. We appreciate all the great work he does in watching after our men in uniform.

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

Mrs. BYRON. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of H.R. 4481, the Reserve Officers Personnel Management Act. This bill will simplify and clean up the promotion, retention, and separation of officers of the National Guard and Reserve.

I want to thank the gentlewoman from Maryland [Mrs. BYRON], the chairman of our subcommittee. We will miss her. Maybe this is the last bill she will handle this year. I am not sure of that, but I hope it is not. I say to the gentlewoman, thank you for bringing this legislation forward, and thank you for taking such an interest in the military personnel of this country, the men in uniform. I know how much they owe you and how much we owe you for the work you have done in seeing that the military, both active and National Guard and Reserves, are treated fairly. Again I say, Thanks, BEVERLY BYRON.

To my colleague, the gentleman from Arizona [Mr. STUMP], I say thank you for being here today and letting us bring this bill up. As has been mentioned, this is a very thick bill, and it

is complicated. There is emotion in this retention and retirement type legislation. Jim Schweiter and other members of our staff have done an outstanding job on this bill.

Mr. Speaker, I hope the Senate will move ahead and take up this legislation and pass it and send it to the President. The Defense Department feels very strongly about this legislation. The reservists did an excellent job in the Persian Gulf war. There were some complications on promotion and retention, and this bill would clear up some of these problems. I would hope that the Members will support the legislation.

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

Mr. Speaker, this bill has been 11 years in the making. In conference last week with the Senate, Senator NUNN seemed to be extremely interested in the legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland [Mrs. BYRON] that the House suspend the rules and pass the bill, H.R. 4481, as amended.

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

A motion to reconsider was laid on the table.

MARY McLEOD BETHUNE FINE ARTS CENTER

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3007) to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.

The Clerk read as follows:

S. 3007

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

SECTION 1. MARY MCLEOD BETHUNE MEMORIAL FINE ARTS CENTER.

In recognition of the remarkable career of Mary McLeod Bethune, founder and president of Bethune-Cookman College, founder and first president of the National Council of Negro Women, and confidant and advisor to Presidents of the United States, and in order to enhance the ability of Bethune-Cookman College to carry on the unique quality of service to the community and to Nation that characterizes the life of Mary McLeod Bethune, the Secretary of Education shall, in accordance with the provisions of this section, provide financial assistance to the Bethune-Cookman College in Volusia County, Florida, to enable the Bethune-Cookman College to establish the Mary McLeod Bethune Memorial Fine Arts Center.

SEC. 2 APPLICATION.

No financial assistance may be made under this Act except upon an application at such time, in such manner, and containing or accompained by such information as the Secretary of Education may reasonably require.

SEC. 3. USE OF FUNDS.

The financial assistance made available pursuant to this Act shall be used for the construction, maintenance, and endowment of the Mary McLeod Bethune Memorial Fine Arts Center; the acquisition of necessary equipment; and the acquisition of necessary real property for the establishment of the Center.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums, not to exceed $15,700,000, as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to this Act shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill under consideration.

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

There was no objection.

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 3007, to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Fine Arts Center at the Bethune-Cookman College, in Daytona Beach, FL.

This bill was passed by the Senate in identical form on July 22, 1992. S. 3007 is designed to complete the initial Federal obligation and commitment to assist in the construction of a fine arts center in honor of Mary McLeod Bethune.

The Mary McLeod Bethune Fine Arts Center was originally authorized as part of the Higher Education Act Amendments of 1986 in the amount of $15 million, $6.2 million of which was subsequently appropriated.

The 1992 Higher Education Amendments repealed the earlier authorization and construction of the fine arts center leaving the center incomplete. S. 3007 authorizes $15.7 million to complete construction of the center. Rising construction costs have increased the overall amount needed to finish the fine arts center and to create a lasting memorial to one of the Nation's foremost educators.

Mr. Speaker, I urge Members to suspend the rules and pass this bill.

□ 1430

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

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

Mr. Speaker, I rise today in strong support of S. 3007, a bill authorizing completion of the Mary McLeod Bethune Fine Arts Center on the campus of Bethune-Cookman College in Daytona Beach, FL. What better way to honor one of America's pioneering educators and civil rights leaders than to finish a living memorial to her accomplishments?

Mr. Speaker, nearly 90 years ago, a 29-year-old woman pulled the last $1.50 out of her purse to rent a small two story building near the railroad tracks in Daytona Beach. Mary McLeod Bethune's dream was to start a school in that building. By dint of hard work, abiding faith, gentle persuasion and sheer perseverance, she did just that.

Now, Bethune-Cookman College, the product of her initiative and leadership, is a well-respected liberal arts institution with an enrollment of nearly 2,400. However, it still lacks a suitable auditorium to accommodate its performing arts program. And its hotel, motel and restaurant management program is being administered out of a space-deficient mobile home on campus.

Combined, those two programs accommodate roughly 15 percent of Bethune-Cookman's student body. Each offers to successful graduates the prospect of rewarding employment in two of Florida's most dynamic and important industries—tourism and entertainment.

Mr. Speaker, 6 years ago, Congress recognized that these two programs needed better facilities. In the Higher Education Act of 1986, it authorized $6.2 million for phase one of a three-building fine arts center that would honor Dr. Bethune and address that need.

Subsequently, Congress appropriated $6.2 million for that first phase, consisting of a classroom building that it is now complete and operational. But it has yet to authorize the equally necessary performing arts auditorium and the hospitality management training facility.

S. 3007 would rectify that problem. So too would it provide for the maintenance of the entire Mary McLeod Bethune Fine Arts Center once it is complete.

But even more important than the bricks and mortar are the dreams and aspirations that it would help fulfill.

When Mary McLeod Bethune put up her last $1.50 to rent space for what became the Daytona Normal and Industrial School for Girls, she gave life to a dream—and put hope in the hearts of many to whom opportunity was often denied.

Passage of this bill would enhance that dream and turn hope into reality for future generations of students.

Enactment of this measure would be a source of inspiration to the faculty, friends and neighbors of Bethune-Cookman College who have shared, helped advance, and continue to work for the noble aspirations of its founder.

And completion of this fine arts center project would be a tremendous investment in America's future. At a time when our economy is going through a transition, I can think of no better place to put our money than in educational facilities that will equip minority, disadvantaged and other students for the jobs of tomorrow.

Mr. Speaker, I urge my colleagues to support S. 3007 so that this deserving fine arts center will be eligible for an appropriation and can be completed as soon as possible.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and pass the Senate bill, S. 3007.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

WOMEN IN APPRENTICESHIP AND NONTRADITIONAL OCCUPATIONS ACT

Mrs. MINK. Mr. Speaker, I move that to suspend the rules and pass the bill (H.R. 3475) to assist business in providing women with opportunities in apprenticeship and nontraditional occupations, as amended.

The Clerk read as follows:

H.R. 3475

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

SECTION 1. SHORT TITLE.

This Act shall be cited as the "Women in Apprenticeship and Nontraditional Occupations Act".

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) American businesses now and for the remainder of the 20th century will face a dramatically different labor market than the one to which they have become accustomed;

(2) two in every three new entrants to the work force will be women, and to meet labor needs such women must work in all occupational areas including in apprenticeable occupations and nontraditional occupations;

(3) women face significant barriers to their full and effective participation in apprenticeable occupations and nontraditional occupations;

(4) the business community must be prepared to address the barriers that women have to such jobs, in order to successfully integrate them into the work force;

(5) few resources are available to employers and unions who need assistance in recruiting, training, and retaining women in apprenticeable occupations and other nontraditional occupations.

(b) PURPOSE.—It is the purpose of this Act to provide technical assistance to employers and labor unions to encourage employment of women in apprenticeable occupations and nontraditional occupations. Such assistance will enable business to meet the challenge of Workforce 2000 by preparing employers to successfully recruit, train, and retain women in apprenticeable occupations and nontraditional occupations and will expand the employment and self-sufficiency options of women. This purpose will be achieved by—

(1) promoting the program to employers and labor unions to inform them of the availability of technical assistance which will assist them in preparing the workplace to employ women in apprenticeable occupations and nontraditional occupations;

(2) providing grants to community-based organizations to deliver technical assistance to employers and labor unions to prepare them to recruit, train, and employ women in apprenticeable occupations and nontraditional occupations;

(3) authorizing the Department of Labor to serve as a liaison between employers, labor, and the community-based organizations providing technical assistance, through its national office and its regional administrators; and

(4) conducting a comprehensive study to examine the barriers to the participation of women in apprenticeable occupations and nontraditional occupations and to develop recommendations for the workplace to eliminate such barriers.

SEC. 3. OUTREACH TO EMPLOYERS AND LABOR UNIONS.

(a) IN GENERAL.—With funds available to the Secretary of Labor to carry out the operations of the Department of Labor in fiscal year 1994 and subsequent fiscal years, the Secretary shall carry out an outreach program to inform employers of technical assistance available under section 4(a) to assist employers to prepare the workplace to employ women in apprenticeable occupations and other nontraditional occupations.

(1) Under such program the Secretary shall provide outreach to employers through, but not limited to, the private industry councils in each service delivery area.

(2) The Secretary shall provide outreach to labor unions through, but not limited to, the building trade councils, joint apprenticeable occupations councils, and individual labor unions.

(b) PRIORITY.—The Secretary shall give priority to providing outreach to employers located in areas that have nontraditional employment and training programs specifically targeted to women.

SEC. 4. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—With funds appropriated to carry out this section, the Secretary shall make grants to community-based organizations to provide technical assistance to employers and labor unions selected under subsection (b). Such technical assistance may include—

(1) developing outreach and orientation sessions to recruit women into the employers' apprenticeable occupations and nontraditional occupations;

(2) developing preapprenticeable occupations or nontraditional skills training to prepare women for apprenticeable occupations or nontraditional occupations;

(3) providing ongoing orientations for employers, unions, and workers on creating a successful environment for women in apprenticeable occupations or nontraditional occupations;

(4) setting up support groups and facilitating networks for women in nontraditional occupations on or off the job site to improve their retention;

(5) setting up a local computerized data base referral system to maintain a current list of tradeswomen who are available for work;

(6) serving as a liaison between tradeswomen and employers and tradeswomen and labor unions to address workplace issues related to gender; and

(7) conducting exit interviews with tradeswomen to evaluate their on-the-job experience and to assess the effectiveness of the program.

(b) SELECTION OF EMPLOYER AND LABOR UNIONS.—The Secretary shall select a total of 50 employers or labor unions to receive technical assistance provided with grants made under subsection (a).

SEC. 5. COMPETITIVE GRANTS.

(a) IN GENERAL.—Each community-based organization that desires to receive a grant to provide technical assistance under section 4(a) to employers and labor unions shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) PRIORITY.—In awarding grants under section 4(a), the Secretary shall give priority to applications from community-based organizations that—

(1) demonstrate experience preparing women to gain employment in apprenticeable occupations or other nontraditional occupations;

(2) demonstrate experience working with the business community to prepare them to place women in apprenticeable occupations or other nontraditional occupations;

(3) have tradeswomen or women in nontraditional occupations as active members of the organization, as either employed staff or board members; and

(4) have experience delivering technical assistance.

SEC. 6. APPLICATIONS.

To be eligible to be selected under section 4(b) to receive technical assistance provided with grants made under section 4(a), an employer or labor union shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require. At a minimum, the application should include—

(1) a description of the need for technical assistance;

(2) a description of the types of apprenticeable occupations or nontraditional occupations in which the employer or labor union would like to train or employ women;

(3) assurances that there are or will be suitable and appropriate positions available in the apprenticeable occupations program or in the nontraditional occupations being targeted; and

(4) commitments that reasonable efforts shall be made to place qualified women in apprenticeable occupations or nontraditional occupations.

SEC. 7. LIAISON ROLE OF DEPARTMENT OF LABOR.

(a) IN GENERAL.—The Department of Labor shall serve as a liaison among employers, labor unions, and community-based organizations. The liaison role may include—

(1) coordination of employers, labor unions, and community-based organizations

with respect to technical assistance provided under section 4(a);

(2) conducting regular assessment meetings with representatives of employers, labor unions, and community-based organizations with respect to such technical assistance; and

(3) seeking the input of employers and labor unions with respect to strategies and recommendations for improving such technical assistance.

SEC. 8. STUDY OF THE BARRIERS TO THE PARTICIPATION OF WOMEN IN APPRENTICEABLE OCCUPATIONS AND NONTRADITIONAL OCCUPATIONS.

(a) STUDY.—With funds available to the Secretary to carry out the operations of the Department of Labor in fiscal years 1994 and 1995, the Secretary shall conduct a study of the participation of women in apprenticeable occupations and nontraditional occupations. The study shall examine—

(1) the barriers to participation of women in apprenticeable occupations and nontraditional occupations;

(2) strategies for overcoming such barriers;

(3) the retention rates for women in apprenticeable occupations and nontraditional occupations;

(4) strategies for retaining women in apprenticeable occupations and nontraditional occupations;

(5) the effectiveness of the technical assistance provided by the community-based organizations; and

(6) other relevant issues affecting the participation of women in apprenticeable occupations and nontraditional occupations.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing a summary of the results of the study described in subsection (a) and such recommendations as the Secretary determines to be appropriate.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) The term "community-based organization" means a community-based organization as defined in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1501(5)), that has demonstrated experience administering programs that train women for apprenticeable occupations or other nontraditional occupations.

(2) The term "nontraditional occupation" means jobs in which women make up 25 percent or less of the total number of workers in that occupation.

(3) The term "Secretary" means the Secretary of Labor.

SEC. 10. TECHNICAL ASSISTANCE PROGRAM AUTHORIZATION.

There is authorized to be appropriated $1,000,000 to carry out section 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Hawaii [Mrs. MINK] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Hawaii [Mrs. MINK].

GENERAL LEAVE

Mrs. MINK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3475.

The SPEAKER pro tempore. Is there objection to the gentlewoman from Hawaii?

There was no objection.

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

Mr. Speaker, I rise today in support of H.R. 3475, the Women in Apprenticeship and Nontraditional Occupations Act. This legislation, introduced by Representative CONNIE MORELLA, has broad bipartisan support from the Subcommittee on Employment Opportunities which reported the bill and from the full Committee on Education and Labor which discharged the bill to the House.

The purpose of this bill is to encourage the employment and retention of women in apprenticeable and nontraditional occupations primarily by providing technical assistance to employers and labor unions that wish to integrate more women into the work force.

Women continue to enter the work force in record numbers. Between 1990 and the year 2000, two-thirds of new work force entrants will be female. However, if current trends continue the majority of these women will enter female dominated careers, which are often lower paying and provide only limited options for advancement. Currently only 9 percent of women workers in the United States are employed in nontraditional jobs.

Advances in reducing occupation segregation over the past decade have occurred mainly in the professions, such as law, medicine, and accounting. In skilled labor and other occupations which utilize apprenticeship programs the gender gap continues to widen. Women comprise only 1.4 percent of electricians in this country, 3.1 of mechanics and 4.8 percent of machinists.

The bill before us today requires the Secretary of Labor to provide grants to community-based organizations to deliver technical assistance to employers and unions to prepare them to recruit, train, and employ women in nontraditional occupations.

Such technical assistance may include: developing outreach and orientation sessions to recruit women; developing nontraditional skills training; conducting seminars on creating a hostile-free environment for women; and setting up support groups, networks, and referral systems.

Fifty employers or labor unions will be selected under this legislation by the Secretary to receive technical assistance and an authorization of $1 million is provided to cover the grants for this program.

In addition, the bill directs the Secretary of Labor to carry out an outreach program to inform employers and labor unions of the technical assistance available under the act while also mandating a study of the barriers to the participation of women in apprenticeable and nontraditional occupations.

Mr. Speaker, there are many barriers to women in nontraditional occupations, and one of the most common is sexual harassment.

In June of this year, the Subcommittee on Employment Opportunities, chaired by Representative PERKINS, held a hearing on sexual harassment in nontraditional occupations. We heard from four courageous women who described the horrendous harassment and discrimination they had suffered in the workplace simply because they chose to work in jobs not traditionally held by women. Their stories are indicative of the thousands of victims who daily face similar treatment.

Mr. Speaker, this bill is essential in providing new employment opportunities for women in jobs traditionally held by men, and in educating employers and employees in these fields that women deserve the same kind of respect, dignity, and opportunity for advancement afforded to men.

At this time I would like to acknowledge the efforts of our colleagues, Mrs. MORELLA, who sponsored the measure, Mrs. SCHROEDER and Ms. SNOWE who cochair the caucus on women's issues, Chairmen FORD and PERKINS and many others who have helped to bring this bill to the House today.

□ 1440

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

I rise today in support of H.R. 3475, and I want to mention at the outset that I am very pleased that the members of the Committee on Education and Labor, Subcommittee on Employment Opportunities, chaired by the gentleman from Kentucky [Mr. PERKINS], with the ranking member, the gentleman from Wisconsin [Mr. GUNDERSON], have done a tremendous job of passing this bill out of the subcommittee and holding a hearing.

I think there is no one more appropriate to be the floor manager of this bill than the gentlewoman from Hawaii [Mrs. MINK], who has followed this legislation ever so closely, cosponsored it, and spoken as an advocate.

I also want to thank the chairman of the full committee and the ranking member, the gentleman from Michigan [Mr. FORD] and the gentleman from Pennsylvania [Mr. GOODLING], for having this bill and the subsequent bill come out on the floor for our passage.

Mr. Speaker, I rise today to urge my colleagues to support legislation that I have introduced that will assist women to achieve equity in the workplace.

H.R. 3475 is the Women in Apprenticeship and Nontraditional Occupations Act, legislation that will address the needs of women who work in occupations that are traditionally dominated by men.

Women in nontraditional occupations face special discrimination. If they are white-collar professionals, there is the

glass ceiling; if blue collar, there is a brick wall. The bill that we are considering today will help women get in, stay in, and prosper in jobs that we know pay well and offer long-term career satisfaction and security.

The Women in Apprenticeship and Nontraditional Occupations Act, H.R. 3475, would provide technical assistance to business and unions to attract, train, and retain women in apprenticeships and nontraditional jobs. The technical assistance would include on-site support for workers and seminars for employers and unions where they would learn how to create a work environment that is free from harassment.

Dawn Munday is a garbage truck driver from western Maryland. She is an experienced truck driver, and she likes her job. It pays well and gives her long-term benefits which she needs as the single head of her household.

On a daily basis, Dawn was required to pick up her assignment papers from the men's bathroom. Her truck keys were always hung next to the urinals.

Nancy Pease is a stationary engineer. She operates and maintains high pressure boilers at a plant in New Jersey. She is the only woman on a staff of about 70 men.

Like Dawn Munday, Nancy is a single mother and wanted a job that she found interesting and that paid well. For her present job, she had to learn the basics of five trades, a process that was not easy. She first was assigned to the plumbing shop, and was told repeatedly that she did not belong there. Her supervisor sprayed her with a fire extinguisher for speaking to a coworker. Her life was threatened on a daily basis.

On one occasion, she was told to work on the electrical controls of a dishwasher, where she had to stand in a puddle of water. When Nancy went to check the circuit box to make sure that the electricity was turned off, her supervisor told her not to bother. He had checked it himself. Nancy answered that she was taught to always doublecheck herself. Sure enough, when she checked the circuit box, the power was still on.

"In the construction trades, women have dropped back even from the minuscule advances they had made in the 1980's." That from an article in today's New York Times on the difficulties facing women in construction. The times points out that women held 1.9 percent of the total jobs in construction in 1991, down from the more than 2 percent from the year before. According to the Times, women have left the field of construction because of what they felt was a hostile environment.

Why, then, do women want jobs in occupations that are traditionally filled by men? The reasons are many. These jobs are more likely to pay better wages and offer greater benefits. Nontraditional jobs often afford workers a wider variety of work schedules and greater job security. For displaced homemakers, women on welfare, or single heads of households, nontraditional jobs can be a pathway to economic self-sufficiency.

The cost of H.R. 3475 is nominal. The Women in Apprenticeship and Nontraditional Occupations Act would provide $1 million for technical assistance to community-based organizations for training and placing women in nontraditional jobs.

Women who are afforded the opportunity to earn adequate wages in male-dominated occupations will be productive contributors to the workplace. Women who are afforded the opportunity to advance will be highly motivated to achieve self-sufficiency and success. H.R. 3475 will help provide this country with well-trained laborers which, in turn, will help the United States meet the challenges of the future.

I urge my colleagues to support H.R. 3475.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MINK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentlewoman from Hawaii [Mrs. MINK] that the House suspend the rules and pass the bill, H.R. 3475, as amended.

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

A motion to reconsider was laid on the table.

COMMISSION ON THE ADVANCEMENT OF WOMEN IN THE SCIENCE AND ENGINEERING WORK FORCES ACT

Mrs. MINK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3476) to establish the Commission on the Advancement of Women in the Science and Engineering Work Forces, as amended.

The Clerk read as follows:

H.R. 3476

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on the Advancement of Women in the Science and Engineering Work Forces Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) despite a consistently high presence of women in the professional and total work forces of the United States, women continue to be underrepresented in the science and engineering work forces;

(2) women scientists and engineers have higher rates of unemployment and underemployment than their male counterparts, although the number of women receiving degrees in scientific and engineering disciplines has increased since 1981;

(3) artificial barriers exist in the recruitment, retention, and advancement of women in the science and engineering work forces;

(4) academia, industry, and government are increasingly aware of the necessity of and the advantages derived from diverse science and engineering work forces;

(5) initiatives of the White House Task Force on Women, Minorities, and the Handicapped in Science and Technology and of the Federal Coordinating Council on Science, Engineering, and Technology have been instrumental in raising public awareness of—

(A) the underrepresentation of women in the science and engineering work forces; and

(B) the desirability of eliminating artificial barriers to the recruitment, retention, and advancement of women in such work forces; and

(6) the establishment of a commission to examine issues raised by these initiatives would help to—

(A) focus greater attention on the importance of eliminating artificial barriers to the recruitment, retention, and advancement of women in the science and engineering work forces and in all employment sectors of the United States;

(B) promote work force diversity;

(C) sensitize employers to the need to recruit and retain women scientists and engineers in order to overcome projected shortfalls within the science and engineering work forces of the United States during the next 20 years; and

(D) encourage the replication of successful recruitment and retention programs by universities, corporations, and Federal agencies having difficulties in employing women scientists and engineers.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the "Commission on the Advancement of Women in the Science and Engineering Work Forces" (hereinafter in this Act referred to as the "Commission").

SEC. 4. DUTY OF COMMISSION.

The Commission shall conduct a study to—

(1) identify the number of women in the United States in the science and engineering work forces, the specific types of occupations in such workforces in which women scientists and engineers are underrepresented;

(2) examine the preparedness of women to—

(A) pursue careers in the science and engineering work forces; and

(B) advance to positions of greater responsibility within academia, industry, and government;

(3) describe the practices and policies of employers and labor unions relating to the recruitment, retention, and advancement of women scientists and engineers;

(4) identify the opportunities for, and artificial barriers to, the recruitment, retention, and advancement of women scientists and engineers in academia, industry, and government;

(5) describe the employment situations in which the recruitment, retention, and advancement of women scientists and engineers are comparable to their male counterparts, and identify those situations in which such comparability does not exist;

(6) compile a synthesis of available research on practices, policies, and programs that have successfully led to the recruitment, retention, and advancement of women in the science and engineering work forces, including training programs, rotational as-

signments, developmental programs, reward programs, employee benefit structures, and family leave policies;

(7) examine such other issues and information relating to the advancement of women in the science and engineering work forces as determined by the Commission to be appropriate; and

(8) issue recommendations that government (including Congress and appropriate Federal agencies), academia, and private industry can follow to assist in the recruitment, retention, and advancement of women in science and engineering.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members as follows:

(1) 5 members appointed by the President.

(2) 3 members appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) 1 member appointed by the majority leader of the House of Representatives.

(4) 1 member appointed by the minority leader of the House of Representatives.

(5) 1 member appointed by the majority leader of the Senate.

(6) 1 member appointed by the minority leader of the Senate.

(7) 2 Members of the House of Representatives, appointed jointly by the majority leader and the minority leader of the House of Representatives.

(8) 2 Senators appointed jointly by the majority leader and the minority leader of the Senate.

(9) The Director of the Office of Science and Technology Policy.

(b) ADDITIONAL QUALIFICATIONS.—Initial appointments shall be made under subsection (a) not later than 180 days after the date of the enactment of this Act. In making each appointment under subsection (a), the appointing authority shall consider (among other factors) whether the individual—

(1) is a member of an organization representing women and minorities;

(2) holds executive management or senior decision-making positions in any business entity; and

(3) possesses academic expertise or other recognized abilities relating to employment and employment discrimination issues.

(c) POLITICAL AFFILIATION.—Not more than ½ of the members appointed from individuals who are officers or employees of the United States may be of the same political party.

(d) CONTINUATION OF MEMBERSHIP.—If a member was appointed to the Commission because the member was an officer or employee of any government and later ceases to be such an officer or employee, that member may continue as a member of the Commission for not longer than the 60-day period beginning on the date the member ceases to be such an officer or employee.

(e) TERMS.—

(1) IN GENERAL.—Each Member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) BASIC PAY.—

(1) RATES OF PAY.—Except as provided in paragraph (2), each member of the Commission shall receive compensation at the daily equivalent of the maximum rate of pay payable under section 5376 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(g) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(i) CHAIRPERSON.—The Director of the Office of Science and Technology Policy shall serve as the Chairperson of the Commission.

(j) MEETINGS.—

(1) MEETINGS PRIOR TO COMPLETION OF REPORT.—The Commission shall meet not fewer than 5 times in connection with and pending the completion of the reports described in subsections (a) and (b) of section 8. The Commission shall hold additional meetings for such purpose if the Chairperson or a majority of the members of the Commission requests the additional meetings in writing.

(2) MEETINGS AFTER COMPLETION OF REPORT.—The Commission shall meet at least once, but not more than twice after the completion of the report described in section 8(b), in connection with and pending completion of the report required by section 8(c).

(k) EMPLOYMENT STATUS.—A member of the Commission, who is not otherwise an officer or employee of the Federal Government, shall not be deemed to be an employee of the Federal Government except for the purposes of—

(1) the tort claims provisions of chapter 171 of title 28, United States Code; and

(2) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

SEC. 6. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

(b) STAFF.—Subject to rules prescribed by the Commission, the Chairperson may appoint and fix the pay of additional personnel as the Chairperson considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(g) CONTRACT AUTHORITY.—To the extent provided in advance in appropriations Acts, The Commission may contract with and compensate government and private agencies or persons for the purpose of conducting research or surveys necessary to enable the Commission to carry out its duties under this Act.

SEC. 8. REPORTS.

(a) STATUS REPORT.—Not later than 1 year after the date on which the initial appointments under section 5(a) are completed, the Commission shall submit to the President and the Congress a written report describing the current activities and findings of the Commission and the direction of the Commission.

(b) RECOMMENDATION REPORT.—Not later than 18 months after the date on which the initial appointments under section 5(a) are completed, the Commission shall submit to the President and the Congress a written report containing—

(1) the findings and conclusions of the Commission resulting from the study conducted under section 4; and

(2) recommendations, including specific proposed legislation and administrative action, based on the findings and conclusions referred to in paragraph (1).

(c) FOLLOW-UP REPORT.—After submission of the report required by subsection (b) and before the termination of the Commission, the Commission shall submit to the President and to the Congress a written report—

(1) identifying which of the recommendations included in such report have been implemented; and

(2) containing any additional information the Commission considers to be appropriate.

SEC. 9. TERMINATION.

The Commission shall terminate 1 year after submitting the report required by section 8(b).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated for fiscal years 1994, 1995, and 1996 such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Hawaii [Mrs. MINK] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Hawaii [Mrs. MINK].

GENERAL LEAVE

Mrs. MINK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

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

Mr. Speaker, I rise today in support of H.R. 3476, the Commission on the Advancement of Women in the Science and Engineering Work Forces Act. The bill passed the Education and Labor Committee with bipartisan support, and I hope that Members on both sides of the aisle will join with me in supporting this bill today.

Indeed, who could not support this bill, if one has heard the stories of Jenny Harrison and Maureen Polsby, two promising researchers whose careers were severely damaged when they ran headlong into sex discrimination and harassment? In a hearing on sexual harassment in nontraditional occupations held by the Employment Opportunities Subcommittee in June, these brave women described the injustices and the debilitating emotional and physical distress they have suffered over the years as a result of sex discrimination. Who knows what contributions these individuals may have made to the body of human knowledge had they been allowed to perform their research? There are human costs here, as well as costs to our economy which, I'm sure my colleagues will agree, we simply cannot afford.

H.R. 3476 was introduced by Representative CONNIE MORELLA as a response to findings that women are under represented, underemployed, and underpaid in the fields of science and engineering. The bill represents a first step toward raising the awareness of Americans about the barriers facing women in these fields and toward suggesting some possible solutions.

H.R. 3476 would create a Commission that would identify and study the barriers to the recruitment, retention, and advancement of women scientists and engineers in academia, industry, and government. Based on its findings, the Commission would be required to issue recommendations that academia, industry, and government could follow a facilitate the transition of women into the science and engineering work forces. The Commission would be terminated 1 year after the issuance of the recommendation report. This will allow time for the Commission to issue the followup report and provide their insight during consideration of the practical ramifications of the proposals.

Mr. Speaker, I wish to thank Chairman FORD, Mr. PERKINS, Mrs. MORELLA, Mrs. SCHROEDER, and many others for their support of this important legislation. Once again, I urge my colleagues to support the passage of H.R. 3476.

□ 1450

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

Again, Mr. Speaker, I want to start at the outset and thank the members of the Committee on Education and Labor, the full committee, and the chairman, the gentleman from Michigan [Mr. FORD] and the gentleman from Pennsylvania [Mr. GOODLING] and the subcommittee, chaired by the gentleman from Kentucky [Mr. PERKINS], and the ranking member, the gentleman from Wisconsin [Mr. GUNDERSON], and the women's caucus, with the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentlewoman from Maine [Ms. SNOWE], who supported it, and the gentlewoman from Hawaii [Mrs. MINK].

I also want to point out that the gentleman from Kentucky [Mr. PERKINS] is here. This will be his last year here in the Congress. I have served with him on the Committee on Science, Space, and Technology and have seen how well he handled the hearing on these two particular pieces of legislation that are so important, the statements he subsequently made, and the statements he made at the hearing. I just want to tell the gentleman how grateful I am and how grateful the people in this country and in this body are for the service he has rendered to us, and that that be in the RECORD.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 3476, legislation that I have introduced that will assist professional women in the fields of science and engineering.

Whether women are scientists or truckdrivers, physicians, or plumbers, they often face isolation, hostility, and harassment in a male-dominated environment. Science, math, and engineering departments of universities share a common characteristic with construction companies. Each employs few women. And each often provides an atmosphere in which women are perceived as unwanted interlopers.

H.R. 3476, the Advancement of Women in the Science and Engineering Work Forces Act, would set up a commission to study the recruitment, retention, and advancement of women in the fields of science and engineering. The commission would then provide much needed information about successful programs upon which educators and employers can build models for success.

When Janny Harrison was hired as an assistant mathematics professor at the University of California at Berkeley, her credentials were exemplary. She had been a tenured professor at Oxford University, and she thought she had overcome the barriers of discrimination for women in mathematics.

Dr. Harrison was denied tenure at Berkeley, while eight of her male colleagues were promoted. She is still embroiled in a legal dispute to become the fourth female mathematics professor in our Nation's top 10 schools.

We are at a time when the United States is in need of technical personnel. The percentage of women earning science and engineering degrees is declining just as projections indicate there will be a shortage in these fields by the year 2000.

In science and engineering, women are underrepresented, underemployed, and underpaid. Women account for only 24 percent of the scientists and a mere 8 percent of our Nation's employed engineers.

Why are fewer women entering the science and engineering fields? H.R. 3476 will address this issue by setting up a commission to closely study what factors are involved in attracting women into science and engineering. The commission would study the roadblocks that prevent women from advancing in these fields and would dispel the myth and the messages that women often receive from society that there are some things that they cannot do.

While we, as a nation, are growing more aware of problems that beset women in the sciences and in engineering, few policies have been implemented to combat these problems. Now, more than ever, we need a broad research project to consolidate information and identify intervention models that work. We need a commission to examine the reasons why women are leaving the technical fields. We need a commission to identify the barriers facing women in the high-technology workplace, and to research successful programs and policies upon which to build models for success.

Recently, Dr. Frances Conley was in Washington to participate on a panel of women scientists. Dr. Conley is the neurosurgeon who resigned from Stanford last year charging that for 25 years she had been subjected to subtle sexism in her male-dominated profession. Shortly before she resigned,

Dr. Conley charged that the medical school administrators appointed a chairman who had been guilty of sexism and that his appointment legitimized his behavior.

Dr. Conley's stories of male professors illustrating their lectures with naked women and of colleagues calling her honey in the operating room touched a nerve at medical schools across the country. She returned to Stanford after the school incorporated some programs to address concerns about sexism and a new chairman was appointed.

H.R. 3476 will help provide this country with highly skilled scientists and engineers which, in turn, will help the United States achieve competitiveness on a global basis. I urge my colleagues to support it.

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

Mrs. MINK. Mr. Speaker, I am pleased to yield such time as she may consume to our distinguished colleague, the gentlewoman from Colorado [Mrs. SCHROEDER], who chairs the Democratic women's caucus, without whose leadership we would not be able to bring this bill to the floor.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentlewoman from Hawaii, and I thank the people from Hawaii for sending the gentlewoman back so we can move these very important bills. Of course, I thank the gentlewoman from Maryland [Mrs. MORELLA] for being so aggressive on these two very, very critical bills.

These two bills were part of the Women's Economic Equity Act that was introduced this session. One of the main focuses in the Economic Equity Act was to deal with the fact that even in 1992 there were so many professions still closed to women or very uncomfortable for women who are in them, so these two bills very aggressively take that on. I salute the Members for getting them through and moving them and having them happen.

We have just finished the very painful beginning of the Tailhook investigation, where we have Navy admirals saying things like, "Women who are Navy pilots are really go-go dancers and hookers," and so forth. We can understand why they were not accepted very well in that culture when the leaders were saying those kinds of things, and yes, unfortunately, it is not just limited to the services. When we hear about the medical schools, when we hear about all sorts of other areas, women are experiencing the same kind of discrimination. There seems to be an attitude that we really do not want them here.

We thought America was about competition, about fairness, about ability, and not about chromosomes. When we say "yes, you have all of that, but your chromosomes are wrong," something is really wrong. That is not the America I signed up for. Hopefully this will move us much closer to the goal. I think overall we absolutely cannot afford not to do this, because we are in a global marketplace, and to deny ourselves total access to over half of the brain power of this country is really crazy.

It is very important. I know when I grew up I had a pilot's license and the thing I wanted to be most was an aerodynamic engineer. The minute I said the words, it was like every counselor from five States moved in on me to convince me that there was no way in the world I should ever be that, and unfortunately I let them talk me out of it. However, I think there are a number of women my age who wanted to do other things but were talked out of it. What we are saying is once and for all, we have to put this behind us.

I really thank everyone for the extensive hearings, for this very, very excellent bill, and I hope we can move all across the board, from the military services to the private sector, and start leading the world rather than following, and saying, "We are going to let everyone participate equally."

Mr. Speaker, I rise today in support of H.R. 3475, the Women in Nontraditional and Apprenticeship Occupations Act, and the legislation that will be considered next, H.R. 3476, the Advancement of Women in Science and Engineering Act.

These two bills are part of the Economic Equity Act, introduced by the congressional caucus for women's issues, which I cochair. The caucus is a bipartisan organization committed to bringing about changes benefiting women in our society. Since 1981, we've introduced the Economic Equity Act, an omnibus package of legislation designed to respond to the changing needs of American society and improve the economic well-being of American women and their families.

This year's Economic Equity Act places strong emphasis on providing new opportunities for women in the workplace, with a special focus on breaking down barriers for women in nontraditional, male-dominated jobs, whether in the skilled trades or in science and math.

Although women have entered and continue to enter the workforce in record numbers, they still tend to be segregated into low-paying, traditionally female clerical and service jobs. Such jobs often fail to provide the type of economic security that women and their families need.

Nontraditional jobs, however, can provide greater economic security for women. Women in nontraditional jobs—which are jobs where 75 percent or more of those employed are men—earn 20 to 30 percent more in average weekly wages than women in traditional occupations.

Whether the woman is part of a two-wage earner family or a single mom supporting her children, those extra wages can mean the difference between financial security or life on the edge. Given that the overwhelming majority of women work out of economic need, and nearly half of all women raising families live below the poverty line, the need to assist women in entering better-paying, nontraditional jobs is clear.

Unfortunately, despite the perception that women are making enormous strides, the number of women in nontraditional jobs remains remarkably similar to what it was a decade ago. Only 17 percent of all participants in apprenticeship programs in the skilled trades are women. More women have been entering science professions, but they fail to advance and drop out of these professions at rates far higher than men.

The major problem affecting women's ability to enter and to advance in these fields is the hostile environment women face when they dare to enter male-dominated professions. Sexual harassment and other invidious forms of discrimination are the norms for such women.

Although women in all types of jobs experience sexual harassment, women in nontraditional, male-dominated jobs are much more likely to experience sexual harassment and other forms of discrimination. At a hearing earlier this year, we heard heartwrenching testimony from women who had been terribly harassed, including receiving death threats, simply because they were women doing what has traditionally been considered a man's job.

The bills the House is considering today will make small but important strides toward solving the problems women in nontraditional fields face. H.R. 3475 will provide technical assistance to employers to help create a workplace free from harassment, while H.R. 3476 will establish a commission to examine ways in which we can help women advance through the pipelines in science and engineering.

We need to ensure that women who want to be scientists or construction workers are given the same opportunities as men. I thank my colleague, Representative CONNIE MORELLA, for introducing these important bills, and urge the House to approve them.

Mrs. MORELLA. Mr. Speaker, I want to thank the gentlewoman from Colorado [Mrs. SCHROEDER] for adding the strength to this legislation, and for her leadership in other ways. I also want to thank the gentlewoman from Hawaii [Mrs. MINK]. It is such a pleasure to have her on that committee. I thank the gentleman from Kentucky [Mr. PERKINS] very much for the leadership that he has shown. I also want to thank the gentlewoman from New York [Ms. MOLINARI] and all the other Members of this body who care about equality.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MINK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentlewoman from Hawaii [Mrs. MINK] that the House suspend the rules and pass the bill, H.R. 3476, as amended.

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

A motion to reconsider was laid on the table.

□ 1500

WEAKFISH CONSERVATION ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2588) to provide for the conservation and management of weakfish, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2588

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Weakfish Conservation Act of 1992".

SEC. 2. IMPROVED COOPERATIVE FISHERY MANAGEMENT PROGRAM FOR WEAKFISH

(a) SHORT TITLE.—Section 1 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by inserting "and Weakfish" after "Bass".

(b) FINDINGS AND PURPOSES.—Section 2 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) by inserting "and weakfish" after "bass" each place it appears;

(2) in paragraph (3)—

(A) by striking "range of the Atlantic striped bass," and inserting "range of either Atlantic striped bass or weakfish", and

(B) by striking "the species" and inserting "these species"; and

(3) in paragraph (4) by striking "this species" and inserting "these species".

(c) DEFINITIONS.—Section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) in paragraph (4) by striking subparagraph (A) and inserting the following:

"(A)(i) for purposes of section 4, Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina; or

"(ii) for purposes of section 8, Pennsylvania and each State bordering on the Atlantic Ocean.";

(2) in paragraph (6) by inserting "or weakfish" after "bass" each place it appears;

(3) in paragraph (7) by inserting "for Atlantic striped bass" after "fishing"; and

(4) by adding at the end the following:

"(10) The term 'weakfish' means members of a stock or population of the species Cynoscion regalis, commonly referred to as 'seatrout'.

"(11) The term 'Weakfish Plan' means the Interstate Fisheries Management Plan for Weakfish, dated October 1985, prepared by the Commission, and all amendments thereto related to fishing for weakfish that are formally adopted as an amendment to the Weakfish Plan for October 1985.".

(d) CLARIFICATION OF EXISTING COMMISSION FUNCTIONS.—Section 4 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) by striking the heading for the section and inserting the following:

"SEC. 4. ATLANTIC STRIPED BASS CONSERVATION.";

(2) in the heading for subsection (a) by inserting "OF STRIPED BASS PLAN" after "ENFORCEMENT".

(e) IMPROVED COOPERATION AMONG COASTAL STATES FOR THE MANAGEMENT OF WEAKFISH.—Section 8 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"SEC. 8. WEAKFISH CONSERVATION.

"(a) MONITORING OF IMPLEMENTATION AND ENFORCEMENT OF WEAKFISH PLAN.—

"(1) DETERMINATION OF IMPLEMENTATION AND ENFORCEMENT.—By January 1, 1994, annually thereafter, and at any other time that the Commission considers it necessary, the Commission shall determine whether—

"(A) each coastal State has adopted all regulatory measures necessary to fully implement the Weakfish Plan in its coastal waters; and

"(B) the enforcement of the Weakfish Plan by each such coastal State is satisfactory.

"(2) CONSULTATION.—If a fishery management plan for weakfish is in effect under title III of the Magnuson Act, the Commission shall consult with the regional fishery management councils which prepared such plan in making a determination under paragraph (1)(A).

"(3) SATISFACTORY ENFORCEMENT.—Enforcement by a coastal State shall not be considered satisfactory by the Commission for purposes of paragraph (1)(B) if the Commission determines that the enforcement is being carried out in such a manner that the implementation of the Weakfish Plan within the coastal waters of that coastal State is being, or will likely be, substantially or adversely affected.

"(4) NOTIFICATION OF SECRETARY.—The Commission shall immediately notify the Secretaries of each negative determination made by it under paragraph (1).

"(b) SECRETARIAL ACTION AFTER NOTIFICATION.—

"(1) IN GENERAL.—Within 30 days after notification from the Commission under subsection (a)(4) that a coastal State has not taken the action described in paragraph (1) of that subsection, the Secretaries—

"(A) shall determine jointly whether the coastal State is in compliance with the Weakfish Plan; and

"(B) declare jointly a moratorium on fishing for weakfish in the coastal waters of the coastal State, if they determine that the State is not in compliance with the Weakfish Plan.

"(2) CONSIDERATIONS.—In making determinations under paragraph (1)(A) for a coastal State, the Secretaries shall carefully consider and review the comments of—

"(A) the Commission;

"(B) the appropriate regional fishery management councils under the Magnuson Act; and

"(C) the coastal State.".

(f) MORATORIUM.—Section 5 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) in subsection (a)(1) by inserting "or section 8(b)" after "(4)(b)"; and

(2) in subsection (a)(2)—

(A) by inserting "a" before "moratorium" the second place it appears; and

(B) by inserting "or section 8(b)" after "4(b)";

(3) in subsection (b)(1)—

(A) by inserting "for the fishery resource that is subject to the moratorium" after "fishing"; and

(B) by striking "the" and inserting "a";

(4) in subsection (b)(2) by inserting "or weakfish" after "bass";

(5) in subsection (b)(3)—

(A) by inserting "or weakfish" after "bass"; and

(B) by inserting "or section 8(b), respectively," after "4(b)";

(6) in subsection (b)(4)—

(A) by inserting "or weakfish" after "bass" each place it appears;

(B) by striking "the" the second place it appears and inserting "a";

(7) in subsection (d)(2) by inserting a close parenthesis after "1806(c)-(e)";

(8) in subsection (e)(1)—

(A) by inserting after "(1)" the following: "IN GENERAL.—";

(B) by moving paragraph (1) down so as to begin on the line below the heading for subsection (e);

(C) by moving paragraph (1) 2 ems to the right, so that the left margin of the paragraph is aligned with the left margins of paragraphs (2) and (3); and

(D) by inserting "or section 8(b)" after "4(b)"; and

(9) in subsection (e)(2) by inserting "or section 8(b)" after "4(b)".

(g) CONFORMING AMENDMENTS.—The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended in section 4 by striking "Plan" each place it appears and inserting "Striped Bass Plan".

(h) EFFECTIVE DATE.—Notwithstanding section 9 of the Atlantic Striped Bass Conservation Act, section 8 of such Act, as amended by this Act, shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from California [Mr. HERGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, I rise in support of H.R. 2588, the Weakfish Conservation Act of 1992. The author of the bill, Mr. CARPER, introduced this legislation more than a year ago to protect the weakfish and since that time has worked tirelessly to develop an acceptable legislative solution. His goal, as is mine, is to ensure that weakfish do not become the nautical equivalent of the dodo bird.

Weakfish are an important resource for both commercial and recreational fishermen from New England to North Carolina. In the late 1970's, recreational fishermen in my own State of Massachusetts caught weakfish weighing over 12 pounds in Buzzards Bay. Today, the Buzzards Bay fishery is nonexistent, the average size of the fish caught elsewhere is 1–2 pounds, and overall landings along the Atlantic coast have declined by 85 percent. If we do not act now to provide conservation for the weakfish, irreparable damage may be done, and the stocks may never recover.

A management plan for weakfish has been developed, but many States have yet to implement the measures required to conserve these stocks. This situation is identical to the one we faced in the early 1980's when striped bass stocks were also decimated. As many may recall, we responded then by enacting the Striped Bass Conservation Act of 1984, leading to the successful recovery of the striper. Today, by ap-

proving H.R. 2588, we can do for the weakfish what we have done for the striped bass. In short, Mr. Speaker, we have the ability today to make the weakfish strong.

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

Mr. HERGER. Mr. Speaker, I yield myself whatever time I may consume.

Mr. Speaker, I rise in support of H.R. 2588, the Weakfish Conservation Act. The stocks of weakfish appear to be at a crisis level and many believe that without swift action, those stocks may be irreparably damaged. Fortunately, the conservation effort used in this legislation is not untried, and has been successful for the Atlantic striped bass. Hopefully, it will also work for the weakfish.

However, I would like to point out that there is some opposition to approaching conservation of certain fish stocks that migrate along the eastern seaboard, on a stock-by-stock basis. Many States, as well as the Atlantic States Marine Fisheries Commission, and the administration would like to see a broader conservation effort that would address all interjurisdictional fisheries on the east coast. Unfortunately, we do not have enough time in this Congress to work in that sort of legislation.

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

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. CARPER], who wants to make the weakfish strong, who is the strongest proponent, and who is someone who probably thinks that the striped bass is a rockfish.

Mr. CARPER. Mr. Speaker, I want to express my gratitude to the gentleman from Massachusetts and to the gentleman from California [Mr. HERGER] for their support.

History does have a way of repeating itself. Almost a decade ago cries of alarm were heard in this Chamber that the rockfish, or what we call the striped bass, was being depleted up and down the coast. Some refused to acknowledge that serious depletion. They opposed any intervention by the Federal Government. If those opponents had gotten their way, little would have been done to preserve the rockfish or the striped bass, and they would have largely disappeared from our waters.

After several years of debate, this Congress did act. We passed the Atlantic Striped Bass Conservation Act of 1984. We hear a lot of comments about the failings of the Congress and the failings of the Federal Government. I think it is important to note that the Striped Bass Act is a real success story. The striped bass returned in every-increasing numbers to the Chesapeake and other estuaries along the east coast.

Mr. Speaker, I will not read an editorial from the September 26, 1992, issue of the News Journal of Delaware, but I include this article entitled "Latest report shows moratorium on striped bass is now working," as follows:

ROCKFISH REBOUND—LATEST REPORT SHOWS MORATORIUM ON STRIPED BASS IS NOW WORKING

Encouraging news for the Chesapeake Bay rockfish was recently released by the Maryland Department of Natural Resources: The once endangered popular sport and eating fish are having more babies than they have had in the last two decades.

A moratorium on commercial and recreational taking of the fish, also called striped bass, was imposed by Maryland in 1985 after the schools began dwindling badly. A limited recreation season remained.

The average number of baby rocks caught at 22 sampling stations in the upper Chesapeake, the Choptank, Potomac and Nanticoke rivers showed an average of 9.1 per catch. That is up from 4.4 last year and 2.1 in 1990.

And the samplings do not include the thousands of new rockfish released through Delmarva Power & Light Co.'s private stocking at its Vienna, Md., plant on the Nanticoke. That laudable program places special markings on the fish.

Chesapeake Bay Foundation biologists warn that the apparent resurgence of rockfish does not necessarily signal a cleaner and healthier estuary. There is still a ways to go on that front.

But the biologists remain pleased with the latest report on the rockfish baby boom.

The moratorium is scheduled to be lifted in 1995. We hope it is not lifted until all biologists and bay experts agree the time is indeed right.

The good news is the striped bass is coming back and is resurgent. The bad news is that there are dozens of other species of migratory fish that are being depleted much as the striped bass was in the early 1980's.

For much of the past year, let me say to my friend, the gentleman from California [Mr. HERGER], over much of the past year several Members have worked to try to build a consensus to address not just one species of migratory fish that is under stress, but to really build a generic approach. I wish I could report that we succeeded. We have not. As a result, we have the legislation before us today.

If the situation continues to worsen with respect to other migratory species, my hope and my expectation is that the Congress will eventually act, and as pressure builds, but unfortunately then the cure that will be required will be drastic, and the suffering placed on individuals and on an industry may be very severe.

There is one step, however, that we can take today to preserve the most threatened species of migratory fish found along the coastal waters of the eastern seaboard, and that is to pass this bill, H.R. 2588, which amends the Striped Bass Act by adding one more species of fish to its protection, the sea trout, or as we call them, the weakfish.

In the early 1980's one of the most popular species of fish along the eastern seaboard was the weakfish, for commercial fishermen and for recreational fishermen and fisherwomen. In 1980, for example, 80 million pounds, 80 million pounds of this fish, the weakfish, was taken along the eastern seaboard, 80 million pounds. Last year, 1991, the take had dropped by 85 percent to just 10 million pounds. So few weakfish live today to their first birthday that not only is it impossible to stabilize the species population, but I think we are witnessing the collapse of an entire species of fish.

That does not have to happen. We can do something about it, and I hope my colleagues here will join us today in a bipartisan group from Florida to Massachusetts, the gentleman from South Carolina [Mr. RAVENEL], the gentleman from New Jersey [Mr. SAXTON], the gentleman from Florida [Mr. GOSS], the gentleman from Maryland [Mr. GILCHREST], the gentleman from New Jersey [Mr. HUGHES], the gentleman from Michigan [Mr. HERTEL], the gentleman from Massachusetts [Mr. STUDDS], and myself from Delaware.

Here is briefly how our proposal would work. In 1985 the Atlantic States Marine Fisheries Commission adopted a management plan for the weakfish. In 1991 they amended that plan to ask States to comply and to reduce the take of weakfish in 1994 by 25 percent. Our bill simply directs the Atlantic States Marine Fisheries Commission to evaluate compliance of the States with the management plan adopted in 1985 and amended in 1991 and to do so by the beginning of 1994.

Those States not in compliance with the management would be asked to comply, and their failure to comply by the beginning of 1994 could lead the Commission report to go to two secretaries, the Secretary of Commerce and the Secretary of the Interior stating those States are not in compliance. If those two secretaries agree with the findings of the Commission, a moratorium on the fishing of weakfish in the coastal waters of those States in violation will be put in place. The moratorium itself would be lifted simply by a finding of the Commission that that State was in compliance with the management plan.

That is it. It is simple; it is straightforward. Our bill provides a tool to encourage States to take steps now to avoid eliminating the weakfish altogether in the future.

Again, I wish we could do more, as the gentleman from California [Mr. HERGER] suggested. But this is the best we can do today, and this much we should do.

Mr. STUDDS. Mr. Speaker, let me just thank the gentleman from Delaware for acknowledging that in the unlikely event the weakfish makes it as far north as New England that it is likely to be addressed as a sea trout.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 2588, the Weakfish Conservation Act, introduced by my friend and colleague, TOM CARPER.

Weakfish, also known as sea trout, are an important fisheries resource for both commercial and recreational fishermen from Massachusetts to North Carolina. However, overharvesting of this species has caused significant declines in the stocks, threatening the entire fishery with collapse.

In fact, the combined recreational and commercial catch of weakfish in 1980 was 80 million pounds. Last year, the catch was 10 million pounds—an 85-percent decline in the last decade!

The responsibility for managing this fishery is in the hands of the Atlantic States Marine Fisheries Commission, a compact of 15 Atlantic States. Such a cooperative interstate approach is the most effective means of managing any highly migratory species. Indeed, management of a fishery by one State will have little impact unless similar measures are adopted all along the migratory range of the species.

This is the very problem that confronts the weakfish resource. While a fishery management plan has been developed by the Atlantic States Marine Fishery Commission, not all States have implemented the plan.

H.R. 2588 would provide an impetus to ensure that management measures recommended by the plan are implemented by all States by January 1, 1994. While the responsibility for management of the fishery would remain with the States, the legislation would provide the Federal Government with the ability to impose a moratorium on weakfish fishing within the coastal waters of any State that the Commission finds not to be fully implementing the conservation measures prescribed by the plan.

While a generic bill is preferable to dealing with each fishery resource on a species by species basis, such a generic bill at this time is not possible. Accordingly, H.R. 2588 amends the Striped Bass Conservation Act of 1984 to include weakfish. Just as the Striped Bass Act has led to the successful rebuilding of Atlantic striped bass stocks, the weakfish amendment will help rebuild the weakfish stocks.

This is a necessary measure if we are to save this important fishery from collapse and I commend Mr. CARPER for his efforts in developing legislation to address this issue.

Mr. Speaker, this bill is fair and reasonable and I urge my colleagues' support for its passage.

Mr. YOUNG of Alaska. Mr. Speaker, I very reluctantly rise in opposition to H.R. 2588 and urge its defeat by the House.

I want to compliment the sponsor of this bill, Mr. CARPER of Delaware, for his work in trying to conserve fishery stocks in the Atlantic Ocean. I have no disagreement with Mr. CARPER's goals. However, I am concerned that this bill was taken up by the Committee on Merchant Marine and Fisheries in the last moments of the session, without opportunity for full analysis of its implications. I note that the bill is opposed by several States which would be affected by the bill.

Therefore, while I commend the author of the bill, Mr. CARPER, support his efforts, and would more than likely support similar legislation if it were introduced in the next Congress, I cannot at this time support passage of H.R. 2588.

Mr. BATEMAN. Mr. Chairman, the Commonwealth of Virginia opposes this legislation because it duplicates actions that have already been taken by Virginia as well as by the other concerned Atlantic Coastal States, and because they view the legislation as just one more way for the Federal Government to interfere in the State fishery management process.

Under the aegis of the Atlantic States Marine Fisheries Commission, the Atlantic Coastal States have developed a plan for managing weakfish. Under this plan, all Atlantic Coastal States which have a weakfish fishery, have implemented regulations to improve the weakfish stocks in their State waters. The Commonwealth of Virginia has implemented a comprehensive set of regulations that are being applied to both commercial and recreational fisheries. These regulations call for minimum size limits, gear restrictions and bag limits. The other Atlantic Coastal States have similar restrictions.

I believe we need to give these State regulations a chance to work before we pass legislation that would add another bureaucratic layer to the fishery management process.

Based on the fact that the Atlantic Coastal States already are making an honest effort to manage the weakfish fishery, I must oppose the gentleman's bill.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2588, as amended.

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

A motion to reconsider was laid on the table.

FISH AND WILDLIFE LAW ENFORCEMENT CLARIFICATION ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5486) to clarify the law enforcement authority of law enforcement officers of the U.S. Fish and Wildlife Service, as amended.

The Clerk read as follows:

H.R. 5486

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

TITLE I—FISH AND WILDLIFE LAW ENFORCEMENT

SEC. 101. SHORT TITLE.

This Act may be cited as the "Fish and Wildlife Law Enforcement Clarification Act of 1992".

SEC. 102. FINDINGS.

The Congress finds and declares the following:

(1) Law enforcement is an important part of the functions performed by the United States Fish and Wildlife Service (hereinafter in this title referred to as the "Service") in protecting and conserving fish and wildlife and their habitat, and includes—

(A) investigation and apprehension of those persons involved in wildlife conservation law violations;

(B) assisting in the investigation of other Federal crimes encountered during the course of normal duties;

(C) cooperating in law enforcement capacities with local, State, and other Federal law enforcement officers.

(2) Law enforcement officers of the Service should be able to take action on all Federal crimes which are committed on Service lands, including refuges, fish hatcheries, and other installations.

(3) The general public would benefit from improving law enforcement on these properties since visitors would receive better protection from crimes which might be committed against them or their property.

(4) Law enforcement officers of the Service need explicit authorization to enforce all Federal statutes—

(A) on Service property, or

(B) which are discovered during an investigation of a crime under their primary jurisdiction anywhere within the jurisdiction of the United States.

(5) Adequate staff and operating resources are required to fully implement the enforcement functions of the Service.

(6) A 1991 study by the General Accounting Office and a 1990 study done at the request of the Director of the Service show a lack of sufficient personnel and operating funds to accomplish the law enforcement functions of the Service.

SEC. 103. LAW ENFORCEMENT AUTHORITIES OF LAW ENFORCEMENT OFFICERS OF UNITED STATES FISH AND WILDLIFE SERVICE.

(a) IN GENERAL.—Subject to the direction of the Secretary of the Interior, a law enforcement officer of the Service who is performing a duty related to enforcement of a law regarding fish, wildlife, or conservation may—

(1) carry firearms;

(2) execute and serve any order, warrant, subpoena, summons, or other process issued by an officer or court of competent jurisdiction under Federal law;

(3) make an arrest without a warrant—

(A) for any offense under Federal law committed within the officer's presence, or

(B) for any felony cognizable under Federal law, if the officer has reasonable grounds to believe that the person arrested has committed or is committing such felony;

(4) cooperate with any State or political subdivision thereof in the enforcement of the laws of the State or subdivision; and

(5) perform any other law enforcement duty specified by the Secretary of the Interior.

(b) LAW ENFORCEMENT WITHIN NATIONAL WILDLIFE REFUGE SYSTEM.—In addition to the authority granted in subsection (a), for purposes of law enforcement within any area that is part of the National Wildlife Refuge System or any other area owned or controlled by the Service, law enforcement officers of the Service may, under regulations issued by the Secretary of the Interior—

(1) perform acts to maintain law and order and protect persons and property; and

(2) conduct an investigation of any offense under Federal law committed within such area, in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the

offense committed, or with the concurrence of such other agency.

SEC. 104. UTILIZATION OF OTHER FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Interior may—

(1) designate any law enforcement officer of any Federal agency, State, or political subdivision of a State, to act as a special police officer in areas of the National Wildlife Refuge System and to exercise any authority established by this section, if—

(A) the Secretary determines that—

(i) the designation is economical and in the public interest, and

(ii) supplemental law enforcement personnel are needed; and

(B) the head of the Federal agency or the chief executive of the State or political subdivision, respectively, concurs in the designation;

(2) cooperate with any State or political subdivision of a State in the enforcement, within the National Wildlife Refuge System, of the laws or ordinances of the State or subdivision; and

(3) provide reimbursement to a State or a political subdivision of a State, in accordance with such regulations as the Secretary may prescribe, for expenditures incurred in connection with activities of the State or political subdivision pursuant to a designation under paragraph (1).

(b) TREATMENT AS FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a law enforcement officer of a State or political subdivision of a State who is designated to act as a special police officer under subsection (a)—

(A) shall not be considered to be a Federal employee; and

(B) shall not be subject to any provision of law relating to Federal employment, including any provision relating to hours of work, rates of compensation, or Federal benefits.

(2) TORT CLAIMS.—For purposes of chapter 171 of title 28, United States Code (relating to tort claims), a law enforcement officer of a State or a political subdivision of a State shall, when acting as a special police officer designated under subsection (a), be considered to be an employee of the government.

(3) WORKERS COMPENSATION.—For purposes of subchapter 1 of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), a law enforcement officer of a State or political subdivision of a State shall, when acting as a special police officer designated under subsection (a), be considered to be an employee.

(4) CRIMES.—For purposes of section 111 and section 1114 of title 18, United States Code (relating, respectively, to assault on and protection of Federal officers and employees), a law enforcement officer of a State or political subdivision of a State shall, when acting as a special police officer designated under subsection (a), be considered to be an officer of the Department of the Interior designated by the Secretary of the Interior under section 1114 of that title.

SEC. 105. LIMITATIONS.

This title—

(1) supplements the existing law enforcement responsibilities of the Service;

(2) shall not be considered to authorize the delegation of law enforcement responsibilities of the Service to a State or local government; and

(3) shall not be construed or applied—

(A) to limit or restrict the investigative jurisdiction of any other Federal law enforcement agency, or

(B) to affect any right of a State or a political subdivision of a State to exercise civil and criminal jurisdiction over lands controlled by the Service.

SEC. 106. STATE DEFINED.

In this title, 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, American Samoa, Guam, any trust territory of the Pacific Islands, the Virgin Islands, and any other territory or possession of the United States.

SEC. 107. PERMIT ASSISTANCE OFFICE.

The Secretary of the Interior shall establish within the Service an Office of Permit Assistance for the purpose of providing information and assistance regarding domestic and international fish and wildlife laws and regulations, fish and wildlife permit requirements, and international and interstate transportation of fish and wildlife.

SEC. 108. ENTRY OF WILDLIFE PRODUCTS AT PORT OF HAMPTON ROADS, VIRGINIA.

(a) IN GENERAL.—Not later than January 1, 1993, the Director of the United States Fish and Wildlife Service shall assign an inspector to the Port of Hampton Roads, Virginia, or take such other action as may be necessary, to authorize the entry of wildlife products into the customs territory of the United States at that port.

(b) LIMITATION.—In carrying out subsection (a), the Director of the United States Fish and Wildlife Service—

(1) may not decrease the capability of the Service to authorize the entry of wildlife products into the customs territory of the United States at other ports of entry; and

(2) may not collect any fee or charge for entry of products at Hampton Roads, Virginia, that is not comparable to the fees and charges collected at other ports of entry.

TITLE II—NATIONAL FISH AND WILDLIFE FOUNDATION

SEC. 201. AUDIT REQUIREMENTS AND USE OF FUNDS.

(a) AUDIT REQUIREMENTS.—Section 7 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3706) is amended by adding at the end the following new subsection:

"(d) AUDIT REQUIREMENTS.—Subgrantees of the Foundation shall be exempt from the audit reporting and compliance requirements of Circular A-133, as published by the Office of Management and Budget on March 16, 1990, for all grants of $100,000 or less. The Foundation shall amend its grant contracts to ensure that its subgrantees are advised of and certify compliance with all applicable Federal laws and regulations imposed on individuals or organizations receiving Federal funds.".

(b) USE OF FUNDS.—The National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

"SEC. 11. USE OF FUNDS.

"Beginning in fiscal year 1992 and thereafter, the Foundation may continue to draw down Federal funds when matching requirements have been met. Interest earned by the Foundation and its subgrantees on funds drawn down after the date of enactment of this Act, but not immediately disbursed, shall be used to fund activities that are otherwise authorized by this Act and approved by the Board.".

TITLE III—WALTER B. JONES CENTER FOR THE SOUNDS, POCOSIN LAKES NATIONAL WILDLIFE REFUGE

SEC. 301. FINDINGS.

The Congress finds the following:

(1) The Pocosin Lakes National Wildlife Refuge, located in northeastern North Carolina, provides unique opportunities for observing and interpreting the biological richness of the region's estuaries and wetlands.

(2) Although there are 10 national wildlife refuges in eastern North Carolina, not one has an educational or interpretative center for visitors.

(3) The State of North Carolina, Tyrrell County, the town of Columbia, the Conservation Fund, and private citizens have proposed to enter into a partnership with the United States Fish and Wildlife Service to establish an educational and interpretative facility to be known as the Center for the Sounds.

(4) Establishment of the Center for the Sounds would bestow economic benefits upon Tyrrell County and the town of Columbia.

(5) The Federal Government has designated the Albemarle-Pamlico estuary system of northeastern North Carolina as an estuary of national concern.

SEC. 302. FURTHER FINDINGS.

The Congress further finds and declares the following:

(1) Throughout his congressional career, the Honorable Walter B. Jones was a strong supporter of the National Wildlife Refuge System.

(2) During his years of service in the House of Representatives, Walter B. Jones supported the establishment and expansion of National Wildlife Refuges in eastern North Carolina; these include 6 new National Wildlife Refuges established in his district, including the Alligator River National Wildlife Refuge and the Pocosin Lakes National Wildlife Refuge, which are respectively the third largest and fifth largest National Wildlife Refuges east of the Mississippi River.

(3) Walter B. Jones helped increase refuge acreage in his district by over 303,000 acres, thus ensuring the protection of these lands for wildlife habitat and public recreation.

(4) Walter B. Jones' support for reintroducing endangered red wolves into the wild at Alligator River National Wildlife Refuge was a major factor in securing public acceptance of, and support for, this first successful effort to reintroduce endangered predators into formerly occupied habitat.

(5) Walter B. Jones devoted much of his congressional career, including his years as Chairman of the Merchant Marine and Fisheries Committee, to the conservation of fish and wildlife, for the benefit of the Nation and the people of North Carolina.

(6) Walter B. Jones should most appropriately be recognized for his work on behalf of fish and wildlife conservation by having the Center for the Sounds at the Pocosin Lakes National Wildlife Refuge System named in his honor.

SEC. 303. AUTHORITY TO CONSTRUCT AND OPERATE FACILITY.

(a) IN GENERAL.—The Secretary of the Interior may, subject to the availability of appropriations, construct and operate the Walter B. Jones Center for the Sounds at the Pocosin Lakes National Wildlife Refuge in Tyrrell County, North Carolina, for the following purposes:

(1) Providing public opportunities, facilities, and resources to study the natural history and natural resources of northeastern North Carolina.

(2) Offering a variety of environmental educational programs and interpretive exhibits.

(3) Fostering an awareness and understanding of the interactions among wildlife, estuarine and wetland ecosystems, and human activities.

(4) Providing office space and facilities for refuge administration, research, education, and related activities.

SEC. 304. DESIGN.

The Secretary of the Interior shall ensure that the design, size, and location of a facility constructed under this title are consistent with the cultural and natural history of the area with which the facility will be concerned.

SEC. 305. COST SHARING.

The Secretary of the Interior may accept contributions of funds from non-Federal sources to pay the costs of operating and maintaining the facility authorized under this title, and shall take appropriate steps to seek to obtain such contributions.

SEC. 306. REPORT.

Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress on progress made in designing and constructing a facility under this title, including steps taken under section 305 to obtain contributions and any such contributions that have been pledged to or received by the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from California [Mr. HERGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, I arise in support of H.R. 5486, the Fish and Wildlife Law Enforcement Clarification Act, which was introduced by LINDSAY THOMAS to improve the ability of the Fish and Wildlife Service to enforce our wildlife conservation laws.

This bill gives the Service the statutory tools it needs to respond to nonwildlife-related crimes, to which they are increasingly being called upon to respond.

As amended by the Committee on Merchant Marine and Fisheries, the bill will name the visitor center at the Pocosin Lakes National Wildlife Refuge in honor of the late chairman of the Merchant Marine Committee, Walter B. Jones. He was instrumental in gaining the support for wildlife refuges from the communities located adjacent to them, and it is entirely fitting that his legacy be remembered in this way.

The bill will also ensure that the recipients of grants made by the National Fish and Wildlife Foundation are not bogged down in paperwork. The committee substitute amendment before us today also contains a provision that was included at the request of Mr. PICKETT which directs the Fish and Wildlife Service to inspect imports of wildlife products at the port of Hampton Roads.

This is a good piece of legislation. It was approved unanimously by the Committee on Merchant Marine and Fisheries last week. It responds to clearly identified needs and I urge Members to support it.

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

Mr. Speaker, I rise in strong support of H.R. 5486 and urge its adoption by the House.

Mr. Speaker, this bill has a number of parts, all of which are important. The first title of the bill clarifies the authority of U.S. Fish and Wildlife Service law enforcement officers to enforce our national conservation laws. It also provides legal protections for those officers, and to State enforcement officials who may be assisting the Fish and Wildlife Service. Finally, it directs the Secretary of the Interior to establish a permit assistance office so that American citizens can avoid the bureaucracy and redtape of dealing with several Department of the Interior offices when they are trying to obtain fairly simple information.

The second part of this bill exempts the Fish and Wildlife Foundation from certain procedural requirements of the Office of Management and Budget. These exemptions are not intended to circumvent law or to make the Foundation unaccountable to the public. They merely recognize the unique nature of the Foundation as a semipublic body interested in conserving fish and wildlife.

The third part of this bill is the most important to me and to Members of the House. This title will establish the Walter B. Jones Center for the Sounds in North Carolina. The committee has taken this action in recognition of the late Chairman Jones' many years of service to our committee and to the Nation. Chairman Jones worked long and hard to establish a visitor center in this area, and this language will help move his work forward. I hope that we can count on our colleagues on the Committee on Appropriations next year to provide funding for the center that we are authorizing.

Mr. Speaker, this is a noncontroversial bill with many important provisions, and I believe it should be adopted without dissent.

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Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5486, as amended.

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

A motion to reconsider was laid on the table.

AUTHORIZING INTERPRETIVE CENTER FOR RIDGEFIELD NATIONAL WILDLIFE REFUGE

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5809) to authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, WA, as amended.

The Clerk read as follows:

H.R. 5809

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

SECTION 1. INTERPRETIVE CENTER FOR THE RIDGEFIELD NATIONAL WILDLIFE REFUGE.

(a) FINDINGS.—The Congress finds the following:

(1) The Ridgefield National Wildlife Refuge (in this Act referred to as the "Refuge"), located on the Columbia River in southwest Washington, provides unique opportunities for observing and interpreting the biological richness of the lower Columbia River wetlands.

(2) The Refuge is also rich in the cultural history of the Pacific Northwest, including being the site of a large Native American settlement which was visited by the 1804 Lewis and Clark Expedition and other early explorers.

(3) The Refuge is located in close proximity to the Portland/Vancouver metropolitan area and to the Interstate 5 freeway, which carries millions of visitors past the Refuge to Mount St. Helens, Mount Hood, the Columbia River Gorge, wilderness areas, and other natural attractions.

(4) The Refuge is ideally suited to be a regional center for interpretation, research, and education related to wetland ecology, wildlife, the environmental sciences, and Northwest cultural history.

(5) There are unique opportunities for the Federal Government to engage in cost-sharing with local, State, and private partners to construct, operate, and maintain a regional interpretive center at the Refuge.

(b) AUTHORITY TO CONSTRUCT AND OPERATE INTERPRETIVE CENTER.—

(1) IN GENERAL.—The Secretary of the Interior may, subject to the availability of appropriations, construct and operate an interpretive center at the Ridgefield National Wildlife Refuge in Clark County, Washington, for the following purposes;

(A) Providing public opportunities, facilities, and resources to study natural history, Native American culture, and the history of Northwest settlers in the region of the Refuge.

(B) Offering a variety of environmental educational programs and interpretive exhibits.

(C) Fostering an awareness and understanding of the interactions among wildlife, wetland ecosystems, and human activities.

(D) Providing office space and facilities for Refuge administration, research, education, and related activities.

(2) DESIGN.—The Secretary of the Interior shall ensure that the design, size, and location of any facilities for an interpretive center constructed under this section are consistent with the cultural and natural history of the area and which the interpretive center will be concerned.

(c) COST SHARING.—The Secretary of the Interior may accept contributions of funds from non-Federal sources to pay the costs of

constructing, operating, and maintaining an interpretive center under this section, and shall take appropriate steps to seek to obtain such contributions.

(d) PUBLIC PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Director of the United States Fish and Wildlife Service shall engage in a public process to determine—

(1) the design of an interpretive center to be constructed under this section;

(2) opportunities for obtaining contributions of funds for the interpretive center;

(3) the costs of constructing, operating, and maintaining, the interpretive center and associated facilities; and

(4) the functions of the interpretive center, with an emphasis on educational functions.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress on progress made in designing and constructing an interpretive center under this section, on including steps taken under subsection (c) to obtain contributions and any such contributions that have been pledged to or received by the United States.

SEC. 2. ADDITIONAL MEMBERS OF TASK FORCE.

Section 4 of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss-3) is amended by adding at the end the following—

"(j) At such time as the program is expanded to include portions of the Klamath River upstream from the Iron Gate dam, membership on the Task Force shall be increased to include the following—

"(1) One individual who shall be appointed by the Commissioners of Klamath County, Oregon.

"(2) A representative of the Klamath Tribe, who shall be appointed by the governing body of the tribe."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from California [Mr. HERGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, I rise in support of H.R. 5809, which Mrs. UNSOELD introduced to authorize the Fish and Wildlife Service to build a visitor center at the Ridgefield National Wildlife Refuge in Washington State.

The Ridgefield National Wildlife Refuge contains biologically rich wetlands of the lower Columbia River, which are critically important to migrating waterfowl and salmon. Because of its location near Portland, OR, it can offer wildlife education programs and exhibits to a very large audience. I understand that the local community is committed to raising a large share of the funds necessary for constructing this visitor center, and that will clearly go a long way toward making it a reality.

The bill was unanimously approved by the Merchant Marine and Fisheries Committee last week, it is a good bill, and I urge Members to support it.

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

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

Mr. Speaker, I rise in support of H.R. 5809 and urge its adoption.

Mr. Speaker, the first section of this bill provides for establishment of a visitor center at Ridgefield National Wildlife Refuge in the State of Washington. Support for the center will come from local governments and concerned citizens and thus reduce the cost of establishing the center.

The second part of the amendment ensures equal representation for residents of the State of Oregon in the event that the existing Klamath River basin study is extended to include the State of Oregon. This language is similar to H.R. 5888, introduced by our colleague, Mr. SMITH of Oregon, and I commend the gentleman for pursuing the interests of his State.

Mr. Speaker, this is a noncontroversial bill and I believe it deserves adoption.

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

Mr. STUDDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, this legislation, H.R. 5809, calls on the U.S. Fish and Wildlife Service to work with local sponsors and the public on a proposal for an interpretive center at the Ridgefield National Wildlife Refuge, located on the Columbia River just north of the Portland/Vancouver metropolitan area.

The interpretive center would showcase the natural history of the Columbia River wetlands and the rich human history of native Americans, explorers, including the 1804 Lewis and Clark expeditions, and early settlers at the site. The refuge is located less than 5 miles from the Interstate 5 corridor, making it accessible to the region's students and to the millions of visitors who travel to other natural attractions in the area—Mount St. Helens, the Columbia River Gorge, and Mount Rainier.

One of the unique features of this legislation is the willingness of local sponsors, who view the center as an important means of diversifying the local economy, to share in the costs of the facility. Early indications are that local sponsors could cover a large part of the constructions costs and virtually all of the maintenance costs of the facility. The interpretive center would also provide offices for refuge staff, saving the cost of leased office space.

At a time when Federal deficits and tight budgets make investments in new facilities difficult, I believe the kind of cost-sharing and partnership embodied in H.R. 5809 is the way of the future. I urge the House to approve this legislation.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5809, as amended.

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

A motion to reconsider was laid on the table.

BROWNSVILLE WETLANDS POLICY ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5874) to establish a wetlands center at the Port of Brownsville, TX, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5874

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Brownsville Wetlands Policy Act of 1992".

SEC. 2. ESTABLISHMENT OF WETLANDS POLICY CENTER AT THE PORT OF BROWNSVILLE, TEXAS.

(a) ESTABLISHMENT OF CENTER.—For purposes of utilizing grants made by the United States Fish and Wildlife Service there may be established in accordance with this Act, on property owned or held in trust by the Brownsville Navigation District at the Port of Brownsville, Texas, a wetlands policy center which shall be known as the "Brownsville Wetland Policy Center at the Port of Brownsville, Texas" (in this Act referred to as the "Center"). The Center shall be operated and maintained by the Port of Brownsville with programs to be administered by the University of Texas at Brownsville.

(b) MISSION OF THE CENTER.—The primary mission of the Center shall be to utilize the unique wetlands property at the Port of Brownsville and adjacent waters of South Texas to focus on wetland matters for the purposes of protecting, restoring, and maintaining the Lagoon Ecosystems of the Western Gulf of Mexico Region.

(c) BOARD OF DIRECTORS.—The Center shall be governed by a Board of Directors to oversee the management and financial affairs to the Center. The Board of Directors shall be cochaired by the Port of Brownsville, the University of Texas at Brownsville, and the designee of the Director of the Fish and Wildlife Service, and shall include as members other representatives considered appropriate by those cochairs.

(d) OVERSIGHT OF THE CENTER.—

(1) ANNUAL REPORT.—The Board of Directors of the Center shall prepare an annual report and submit it through the Director of the United States Fish and Wildlife Service to the Congress.

(2) CONTENTS.—Annual reports under this subsection shall cover the programs, projects, activities, and accomplishments of the Center. The reports shall include a review of the budget of the Center, including all sources of funding received to carry out Center operations.

(3) AVAILABILITY OF INFORMATION.—The Board of Directors of the Center shall make available all pertinent information and records to allow preparation of annual reports under this subsection.

SEC. 3. GRANTS.

The Director of the United States Fish and Wildlife Service shall, subject to the availability of appropriations, make grants to the Center for use for carrying out activities of the Center.

SEC. 4. LEASE.

The Director of the United States Fish and Wildlife Service, subject to the availability of appropriations, may enter into a long-term lease with the Port of Brownsville for use by the Center of wetlands property owned by the Port of Brownsville. Terms of the lease shall be negotiated, and the lease shall be signed by both parties, prior to the dispersal of any Federal lands pursuant to this Act. The lease shall include a provision authorizing the Director to terminate the lease at any time.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director of the United States Fish and Wildlife Service $1,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, $4,000,000 for fiscal year 1995, $4,000,000 for fiscal year 1996 and such sums as may be necessary for fiscal year 1997, for making grants to the Center under section 3, including for use for the establishment, operation, maintenance, and management of the Center.

SEC. 6. RELATIONSHIP OF CENTER WITH THE CENTER FOR ENVIRONMENTAL STUDIES AND SERVICES, CORPUS CHRISTI, TEXAS.

None of the funds appropriated pursuant to this Act may be used to relocate any of the administrative operations of the United States Fish and Wildlife Service from the Center for Environmental Studies and Services Building on the campus of Corpus Christi State University, to the Brownsville Wetlands Policy Center at the Port of Brownsville, Texas, established pursuant to this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from California [Mr. HERGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, I rise in support of H.R. 5874, the Brownsville Wetlands Policy Act, which was introduced by Mr. ORTIZ. It provides for the establishment of a wetlands policy center at the port of Brownsville, TX, and authorizes the Fish and Wildlife Service to fund wetland research projects on the 7,000 acres of wetlands owned by the Port of Brownsville.

This is a sound proposal and was unanimously approved by the Committee on Merchant Marine and Fisheries last week. I urge Members to support it.

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

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

Mr. Speaker, I rise in support of H.R. 5874 and urge its adoption by the House.

Mr. Speaker, this bill provides for establishment of a wetlands policy center at the Port of Brownsville, TX. The center would use property at the port of study wetlands for the purpose of protecting, restoring, and maintaining the ecosystem of the western Gulf of Mexico.

Mr. Speaker, this is a noncontroversial bill and I would like to commend its sponsor, Mr. ORTIZ, for working to support wetlands research.

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

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ], the author of the bill.

Mr. ORTIZ. Mr. Speaker, I rise today in strong support of H.R. 5874, which establishes a wetlands policy center in Brownsville, TX.

In a move of great generosity and community spirit, the Port of Brownsville has agreed to make available over 7,000 acres of wetlands property for wetlands management, education, and policy program activities. Because these wetlands comprise a broad array of saltwater, freshwater, and brackish ecosystems, they will be able to support and advance a variety of wetlands management techniques. As such, the wetlands center established on this property by this bill will provide our Federal Government a unique opportunity to develop an innovative, cooperative approach to the preservation, restoration and study of wetlands. The center will allow researchers, scientists, and students to conduct actual, applied management techniques on actual wetlands property contiguous to a heavy industrial enterprise. This will provide a unique opportunity to focus on new technologies and approaches on the issues of wetlands preservation and environmentally compatible economic policy. In addition, the center will serve to promote and foster the development of greatly needed graduate degree and career opportunities in the environmental sciences for Hispanics and other minorities in the United States.

The initial focus of the mission of the center will be the study, protection, restoration, and maintenance of the lagoon ecosystems of the western Gulf of Mexico region. However, it is the hope and intention of the principals involved, that the center will ultimately develop into a truly international program to study wetlands preservation techniques, and to help formulate effective wetlands-sensitive economic policy.

The center will be operated and maintained by the Port of Brownsville. The center is to be overseen by a board of directors cochaired by the Port of Brownsville, the University of Texas at Brownsville, and a designee of the Director of the United States Fish and Wildlife Service. Members of the board will be chosen by the cochairs, and shall include representatives from the appropriate Federal, State, and local agencies; representatives of environmental groups, private businesses, and nonprofit organizations; and elected officials of the Brownsville Navigation District.

As a central part of the center's mission to advance educational avenues for minority students to pursue careers in environmental protection, management, and engineering, it is expected that the board of directors will create a consortium of institutions of higher education to establish programs of study, training, and education for minority undergraduate and graduate students in the fields of wetlands environmental engineering, management, and policy. The consortium would be chaired by the University of Texas at Brownsville, and would include institutions from throughout the United States, the nation of Mexico, and other nations as deemed appropriate by the board of directors. With the prospective establishment of a North American Free-Trade Agreement, collaborative efforts on the study of wetlands by the governments of the United States and Mexico will be particularly important.

I ask my colleagues to join me in supporting this legislation. This center will provide a unique opportunity for our Government to focus on new technologies and approaches on the issue of wetlands and our national effort to both understand and protect them. Furthermore, this center will create educational opportunities for minority students to pursue careers in wetlands research-related fields. By supporting the study of wetlands, we not only preserve sensitive ecological habitats, but we encourage academic learning in this important area of academic learning.

I feel this is a modest but important piece of legislation and that it deserves the House of Representatives' support.

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Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5874, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members

have 5 legislative days in which to revise and extend their remarks on the bills just passed, H.R. 5809, H.R. 5874, H.R. 2588, and H.R. 5486.

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

There was no objection.

PROVIDING INCREASED PREINSPECTION AT AIRPORTS

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5555) to provide for increased preinspection at foreign airports, to make permanent the visa waiver pilot program, and to provide for expedited airport immigration processing, as amended.

The Clerk read as follows:

H.R. 5555

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

SECTION 1. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following new section:

"PREINSPECTION AT FOREIGN AIRPORTS

"SEC. 235A. (a) ESTABLISHMENT OF ADDITIONAL PREINSPECTION STATIONS AT HIGH VOLUME AIRPORTS.—Subject to subsection (c), not later than 2 years after the date of the enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 3 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of this section.

"(b) ESTABLISHMENT OF ADDITIONAL PREINSPECTION STATIONS AT CERTAIN FOREIGN AIRPORTS FROM WHICH UNDOCUMENTED ALIENS DEPART FOR THE UNITED STATES.—

"(1) MAINTENANCE OF RECORDS ON ALIENS ARRIVING BY AIR WITHOUT VALID DOCUMENTATION.—The Attorney General shall maintain records concerning the number and nationality of aliens who arrive by air at United States ports of entry without valid documentation. Such records shall indicate the foreign airports which served as the last points of departure for such aliens.

"(2) ESTABLISHMENT OF ADDITIONAL PREINSPECTION STATIONS.—Subject to subsection (c), not later than November 1, 1996, the Attorney General, in consultation with the Secretary of State, shall establish 3 preinspection stations in foreign airports. The locale of such preinspection stations shall be determined by the Attorney General after reviewing the records maintained under paragraph (1), with the intention of preventing aliens, to the greatest extent feasible, from arriving in the United States without valid documentation. Such preinspection stations shall be in addition to any preinspection stations established under subsection (a) or prior to the date of enactment of this section.

"(3) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to any foreign airport which, based on the records maintained under paragraph (1), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station is established.

"(c) CONDITIONS FOR ESTABLISHMENT OF PREINSPECTION.—Prior to the establishment of a preinspection station the Attorney General shall ensure that—

"(1) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate diplomatic protection,

"(2) such employees and their families will not be subject to unreasonable risks to their welfare and safety,

"(3) the facilities at the preinspection station conform to Federal Inspection Services standards,

"(4) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951) or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967), and

"(5) no national or habitual resident of the country in which the preinspection station is to be established within the preceding 3 years has been admitted to the United States as a refugee pursuant to section 207 or granted asylum pursuant to section 208.

"(d) TREATMENT OF ALIENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—The Attorney General shall permit aliens lawfully admitted for permanent residence who—

"(1) present themselves to an examining immigration officer at preinspection stations (established under this section or otherwise), and

"(2) do not appear to the officer to be clearly and beyond a doubt entitled to land in the United States,

to proceed to the United States, subject to procedures established by regulation pursuant to sections 235 and 236.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 235 the following new item:

"Sec. 235A. Preinspection at foreign airports.".

SEC. 2. VISA WAIVER PROGRAM.

(a) PERMANENCY OF PROGRAM.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by amending the section heading to read as follows:

"VISA WAIVER PROGRAM FOR CERTAIN VISITORS";

(2) in the heading of subsections (a), (a)(2), and (c) by striking "PILOT" and "PILOT" each place either appears and inserting "VISA WAIVER" and "VISA WAIVER", respectively;

(3) by striking "pilot" each place it appears and inserting "visa waiver";

(4) in subsection (a)(1) by striking "during the pilot program period (as defined in subsection (e))";

(5) in subsection (c)(3) by striking "(within the pilot program period) after the initial period";

(6) in subsection (c) by striking paragraph (4);

(7) in subsection (e)(1)(A) by striking "(a)(1)(A)" and inserting "(a)(1)"; and

(8) by striking subsection (f).

(b) ELIMINATION OF REQUIREMENT FOR EXECUTION OF IMMIGRATION FORMS.—Section 217 of such Act is further amended—

(1) in subsection (a) by striking paragraph (3);

(2) in subsection (a) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively; and

(3) in subsection (e)(1) by striking "subsection (a)(4)" and inserting "subsection (a)(3)".

(c) EXCLUSION AND DEPORTATION OF APPLICANTS FOR ADMISSION UNDER VISA WAIVER PROGRAM.—Section 217(b) of such Act is amended to read as follows:

"(b) EXCLUSION AND DEPORTATION OF APPLICANTS FOR ADMISSION UNDER VISA WAIVER PROGRAM.—

"(1) EXCLUSION.—

"(A) An immigration officer's determination that an applicant for admission under this section is not clearly and beyond a doubt entitled to land shall constitute a final order of exclusion and deportation, enforceable pursuant to section 237. Pending such a determination, the Attorney General may maintain such applicant in custody.

"(B) The procedure described in section 236 shall not apply to an order issued under this paragraph.

"(2) DEPORTATION.—

"(A) Notwithstanding any other provision of law, an alien admitted to the United States under this section who is determined, pursuant to such regulations as the Attorney General shall prescribe, to be subject to deportation shall be deported pursuant to section 243. An immigration officer's determination under this subsection shall constitute a final order of deportation. Pending such determination, the Attorney General may maintain such alien in custody.

"(B) The procedure described in section 242 shall not apply to an order issued under this paragraph.

"(3) REVIEW.—Notwithstanding any other provision of law or the failure of a carrier to provide the notice described in subsection (e)(1)(D), an alien who applies for admission to the United States under this section shall not be entitled—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

"(B) subject to paragraph (4), to contest an immigration officer's determination under paragraph (2).

"(4) ASYLUM.—The Attorney General shall establish a procedure for an alien who is applying for admission under this section or who has been admitted under this section to apply for asylum under section 208.

"(5) TREATMENT OF NATIONALS OF VISA WAIVER COUNTRIES.—An alien who—

"(A) is a national of a visa waiver program country or claims to be a national of a visa waiver program country, and

"(B) is not in possession of a valid visa,

shall be considered to be an applicant for admission under this section.".

(d) CARRIER AGREEMENTS.—Section 217(e)(1) of such Act is amended—

(1) in subparagraph (B) by striking "and";

(2) in subparagraph (C) by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) to provide passengers applying for admission to the United States under this section with written information concerning the conditions of the program and notification that they are not entitled (i) to any appeal or review of an immigration officer's determination of admissibility, or (ii) to contest any action for deportation.".

(e) CONFORMING AMENDMENT.—Section 235(b) of such Act (8 U.S.C. 1225(b)) is amend-

ed by inserting "or an applicant for admission under section 217" after "alien crewman".

(f) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 217 is amended to read as follows:

"Sec. 217. Visa waiver program for certain visitors.".

SEC. 3. EXPEDITING AIRPORT IMMIGRATION PROCESSING.

(a) PASSENGER MANIFESTS.—

(1) ELECTRONIC PASSENGER MANIFESTS.—Section 231(a) of the Immigration and Nationality Act (8 U.S.C. 1221(a)) is amended in the first sentence by striking "typewritten" and inserting "electronic, typewritten,".

(2) INFORMATION CONTAINED IN PASSENGER MANIFEST.—Section 231(a) of such Act (8 U.S.C. 1221(a)) is further amended by inserting immediately before the period at the end of the second sentence ", except that regulations concerning the information contained in such lists may not require information other than the full name, date of birth, passport number, and citizenship of the person transported, and information identifying the flight on which the person was transported".

(b) INSPECTION BY IMMIGRATION OFFICERS.—Section 235(a) of the Immigration and Nationality Act (8 U.S.C. 1225(a)) is amended by adding after the second sentence the following: "Except as the Attorney General may provide, nothing in this section shall be construed as requiring a personal interview in the conduct of an examination or inspection.".

(c) PROVISION OF IMMIGRATION INSPECTION AND PREINSPECTION SERVICES.—

(1) IN GENERAL.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended—

(A) in subsection (g) by striking "forty-five" and inserting "thirty"; and

(B) in subsection (l)—

(i) by striking "forty-five" and inserting "thirty"; and

(ii) by striking "March 31st" and inserting "January 31st".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to passengers arriving on or after 60 days after the date of the enactment of this Act.

(d) EXPEDITED PROCESS FOR THE INSPECTION OF CITIZENS.—

(1) IN GENERAL.—Section 235A of the Immigration and Nationality Act, as inserted by section 1(a) of this Act, is amended—

(A) in the heading, by adding at the end the following: "; EXPEDITED PROCESS FOR THE INSPECTION OF CITIZENS", and

(B) by adding at the end the following new subsection:

"(e) EXPEDITED PROCESS FOR THE INSPECTION OF CITIZENS.—Not later than 90 days after the date of the enactment of this section, the Attorney General shall implement an expedited process for the inspection of United States citizens upon arrival from abroad by air at ports of entry within the United States. An expedited process shall be maintained except during a national or airport specific security emergency as determined by the Attorney General.".

(2) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 235A, as inserted by section 1(b) of this Act, is amended to read as follows:

"Sec. 235A. Preinspection at foreign airports; expedited process for the inspection of citizens.".

SEC. 4. ELIMINATION OF SUNSET FOR CERTAIN G-4 SPECIAL IMMIGRANT PROVISIONS.

(a) IN GENERAL.—Section 101(a)(27)(I)(iii)(II) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(I)(iii)(II)) is amended by striking "before January 1, 1993, and".

(b) CONFORMING AMENDMENTS.—Section 101(a)(27)(I) of such Act is further amended by striking "or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988, whichever is later" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

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

Mr. Speaker, this bill is another installment in our efforts to prevent illegal immigration. In the past few years, a new form of this problem has emerged: Illegal immigration by commercial airliner. The way it works is this: The person gets on a plane headed for the United States, either without documents or with fraudulent documents. The INS's policy is to detain such individuals upon arrival in the United States, pending deportation. But because the INS lacks sufficient detention space, the would-be immigrant is typically paroled into the community with instructions to report several months later for a hearing before an INS officer. Most simply disappear.

Now that word has gotten out about this situation, the number of undocumented arrivals has mushroomed, from a few thousand 5 years ago to 37,500 last year. These individuals are flouting the immigration laws, putting themselves at the head of the line while other folks wait for years to immigrate. Worst of all, these airport arrivals are making a mockery of the asylum process. Many of them make asylum claims, even though they have no basis at all for doing so, simply to get into a process that they can stretch out for years, and to get the work permit to which asylum applicants are entitled. The U.S. commitment to refugees is going to be more crucial than even in the years ahead, with ethnic conflict boiling over in trouble spots around the world. We cannot afford to have fraudulent claimants taking up valuable spaces and eroding public support for the entire refugee program.

This bill would counter this unfortunate trend by setting up preinspection stations at six of the overseas airports that have sent us the largest numbers of fraudulent passengers. These stations will enable immigration and naturalization service inspectors to screen out undocumented passengers before they get to the United States. Not only will this help maintain the integrity of our immigration and asylum laws, but it will also be cost effective. Passengers inspected overseas will not have to be inspected upon arrival, so more inspectors will not be needed, and the detention and legal costs associated with fraudulent passengers here in the United States will be eliminated.

In addition to the preinspection stations, this bill also tackles two other problems. One is the increasingly long lines faced by international passengers at destination airports. Under an international agreement negotiated by the State Department, countries are supposed to complete examination of international passengers within 45 minutes after the passenger's arrival. Far too often, however, this standard is not met. H.R. 5555 would speed passenger processing in a number of ways, including streamlining the visa waiver program, permitting the INS to accept electronic manifests, and providing expedited processing for U.S. citizen travelers. International air travel reduces our trade deficit by nearly $10 billion a year—making it one of our most successful exports—and these measures will make sure that we can maintain our competitiveness in this industry.

Finally, the bill also contains provisions related to socalled G-4 employees and their spouses. These are people who work for international organizations like the United Nations and the world bank. Current law permits such individuals to apply for permanent residency in the United States after they have lived here for 15 years—but this provision will expire next year. This bill would remove the sunset provision. The imminent expiration date is causing these organizations considerable difficulty in recruitment, because potential employees worry about being forced to relocate at an inconvenient time in their families' lives. Incidentally, children of G-4 employees already can become permanent residents—this bill only applies to the employees and their spouses. This provision was originally in a bill introduced by my subcommittee chairman, the gentleman from Kentucky, and I commend him for his efforts on this issue. He has also asked me to recognize the contribution of our colleague on the judiciary committee, BARNEY FRANK, who has worked tirelessly to bring this issue to the attention of the subcommittee.

I also want to thank subcommittee chairman MAZZOLI and Chairman BROOKS of the judiciary committee for all their work on this entire bill, and especially Mr. MCCOLLUM , the ranking Republican member on the immigration subcommittee, who has been very diligent in working with me to get a bill that both sides of the aisle can support.

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

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

Mr. Speaker, I rise in support of H.R. 5555, but with some reservations. On

the whole, this legislation improves the immigration inspection process at airports and takes steps towards dealing with the flood of aliens who are arriving at our international airports with fraudulent documents or with no documents at all.

The size of the problem at our international airports is large and growing. Last year the number of aliens entering with no documents or fraudulent documents was over 37,000; this year the alien smuggling rings are bringing in even more people.

The activities of these rings not only circumvent our immigration control laws, but also contribute to human misery and criminal activity, since many of the smuggled aliens virtually are indentured servants, forced to work off the cost of their transit by engaging in prostitution, drug dealing, or other illegal activities.

I want to commend the gentleman from New York [Mr. SCHUMER] for introducing this legislation and thank him for his willingness to work together to produce a bill that addresses this very serious immigration control problem. There continues to be a couple of problems with the legislation, but I am confident that we will be able to work those out before sending the bill to the President for his signature.

It is important to point out that while this legislation will help reduce document fraud and alien smuggling at our international airports, it is missing a vital component of a comprehensive approach to dealing with the situation.

The bill addresses the problem at points overseas and on airlines, but it does not deal with the problem here in the United States. It does not reform the asylum process nor stop the abuse of that system at U.S. ports of entry by alien smugglers.

Under the scam currently being used by the smugglers, they direct their falsely documented clients to claim asylum at a U.S. port of entry. Because INS does no have the detention space to hold all applicants while their asylum claims are adjudicated, the smugglers know that their clients will be released into the public.

Once that happens, the undocumented aliens can disappear into the general population and simply never show up for asylum proceedings. The likelihood of INS catching up to them is remote.

The smugglers, however, have more effective—and much more brutal—enforcement capabilities than INS. If the aliens do not show up to work off the huge fees charged by the smugglers, they are likely to end up badly beaten or even dead.

In order to respond to this abuse of the asylum process, we need to institute reforms that stop the abuses while fully protecting those who have valid asylum claims. I hope that we can work with the administration and the other body to develop such a compromise.

As it currently stands, this legislation will improve the efficiency and effectiveness of immigration inspections and take steps toward reducing abuses of our immigration and asylum laws. I urge my colleagues to support it.

Mr. MAZZOLI. Mr. Speaker, H.R. 5555 is an important measure aimed at reducing illegal immigration, while at the same time expediting the processing of legitimate travelers through our international airports.

During this 102d Congress, the Subcommittee on International Law, Immigration, and Refugees has conducted 3 days of hearings at which problems faced by international travelers arriving at U.S. airports has been a primary area of discussion. We have heard from airport and airline executives and officials of the Immigration and Naturalization Service regarding those problems at each of those hearings.

Despite funding increases at INS that have allowed them to put more inspectors at our airports than ever before, international travelers—and about half of them are U.S. citizens—are still subjected to lengthy delays in the inspections process when they arrive from abroad.

Additionally, in recent months we have seen the development of a new phenomenon, namely the arrival at airports of large numbers of aliens who have no documentation whatsoever and who in many cases refuse to tell INS inspectors their names or country of origin. Such aliens either ask for asylum or say nothing. In either event, the result is the same: they are released on bond or parole because INS does not have enough detention space.

H.R. 5555 is designed to address both of those problems. It deals with the processing problem in a variety of ways. For example, it requires INS to set up preinspection at three additional foreign airports within 2 years, and then three more stations by November 1, 1996. Under this procedure, INS will conduct its inspections abroad, thereby obviating the need for any INS inspection once the plane arrives in the United States. This will both prevent undocumented—or improperly documented—aliens from boarding planes and it will allow all passengers on reinspected flights to move through the INS inspections booths here in the United States without any delay at all.

The bill also imposes certain limitations on locating these preinspection stations to protect refugees seeking safe haven in the United States. Accordingly, H.R. 5555 directs the Attorney General not to set up preinspection stations in countries that have been sources of refugees in the preceding 3 years or in countries that fail to maintain adequate asylum procedures.

The bill also makes permanent the visa-waiver pilot program. Under current law, the program would expire in September 30, 1994. This program was enacted as part of the Immigration Reform and Control Act of 1986. It allows short-term visitors for business or pleasure to come to the United States without a visa, provided they come from low-risk parts of the world. Currently 21 countries are participating in the program, and by any measure the program must be considered a success.

The bill also includes a provision to assist aliens employed by international organizations, such as the World Bank. Such aliens are eligible for G–4 visas to come to the United States in conjunction with their work. The 1986 Immigration Reform and Control Act [IRCA] authorized the grant of special immigrant status—that is, permanent residency—to G–4 aliens who have been in the United States for 15 years. This provision in IRCA, however, sunsets at the end of this year.

H.R. 5555 simply deletes the sunset, thereby making the adjustment of status program available to those G–4 aliens who meet the residency requirements and file a petition for benefits in 1993 or beyond. This provision has broad bipartisan support and is strongly endorsed by the administration.

Mr. Speaker, my friend and colleague, the gentleman from New York has done an outstanding job in crafting this legislation. He has analyzed the issues, held discussions with all the interested parties, come up with solutions that have received bipartisan support of all members of the committee. I commend him on a job well done.

Mr. Speaker, I urge my colleagues to vote for this meritorious bill.

□ 1530

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

Mr. Speaker, I just neglected to mention, the gentleman was not from Louisiana. The subcommittee chairman was the gentleman from Kentucky [Mr. MAZZOLI], and I have corrected that in the RECORD.

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

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

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 5555, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5555, the bill just passed.

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

There was no objection.

RURAL ELECTRIFICATION ACT OF 1936 AMENDMENT

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5954) to amend the Rural Elec-

trification Act of 1936 to clarify the status of the rural telephone bank and its accounting policies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5954

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

SECTION 1. FINDINGS AND REAFFIRMATION OF POLICY.

The Congress finds that the Rural Telephone Bank (hereafter in this Act referred to as "the Bank") continues to be an essential source of supplemental financing for rural telephone systems. The Congress finds that the Bank is in fact a mixed-ownership government corporation containing a substantial amount of private capital and further finds that the bank shall maintain its books and accounts in accordance with generally accepted accounting principles separate and apart from those of the Federal Government in a manner that preserves the integrity of the bank as a corporate entity and protects the investment in the bank of the Federal Government and private stockholders.

SEC. 2. INTEREST RATES.

(a) CALCULATION OF INTEREST RATES.—Notwithstanding any other provision of law, a single interest rate on loans advanced or disbursed by the Rural Telephone Bank after September 30, 1992, shall be set at the bank's cost of money rate as defined in section 408(b)(3) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) and calculated in accordance with such paragraph and the factors enumerated therein, in the same manner as such calculations were made prior to October 1, 1991 and as if new advances in disbursements by the telephone bank were made from a single account such as existed prior to October 1, 1991.

(b) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided for in advance in appropriations acts, the Governor of the Rural Telephone Bank shall modify the interest rate on loans advanced or disbursed during fiscal year 1992 to the interest rate provided for in subsection (a) had it been in effect during fiscal year 1992.

SEC. 3. TELEPHONE BANK COLLECTIONS; AVAILABILITY FOR OBLIGATIONS AND EXPENDITURES; BOOKS AND RECORDS.

Section 409 of the Rural Electrification Act of 1936 (7 U.S.C. 931-940d) is amended to read as follows:

"TELEPHONE BANK COLLECTIONS; AVAILABILITY FOR OBLIGATIONS AND EXPENDITURES; BOOKS AND RECORDS

"SEC. 409. (a) Notwithstanding any other provision of law, until the retirement of all class A stock, all moneys of the telephone bank shall remain on deposit in the Treasury for the account of the Rural Telephone Bank. All such moneys in excess of current requirements shall earn interest at a rate equivalent to the interest rate charged by Treasury to the financing account of the telephone bank.

"(b) The telephone bank shall maintain its books and records in accordance with generally accepted accounting principles and shall create such internal program accounts or subaccounts as necessary to identify the subsidy costs to the Federal Government associated with loans made after September 30, 1991, and for the purpose of allocating funds appropriated to the telephone bank to offset such costs.

"(c) Notwithstanding any other provision of law, all assets of the Rural Telephone Bank as they existed on the books and records of the telephone bank as of September 30, 1991, together with assets acquired after such date by the telephone bank, including all cash, collections of principal and interest on loans and other assets, or any portion thereof, whether in the liquidating or financing account of the telephone bank, shall not be transferred to the general fund of the Treasury but shall remain as assets of the telephone bank and be accounted for thereafter in the same manner as such assets were accounted for on September 30, 1991.

"(d) Notwithstanding any other provision of law, all liabilities of the Rural Telephone Bank as they existed on the books and records of the telephone bank as of September 30, 1991, together with liabilities incurred after such date by the telephone bank under this title, including notes, debentures, or other evidences of indebtedness issued by the telephone bank under this title, whether in the liquidity or financing account of the telephone bank, shall remain as liabilities of the telephone bank, and be accounted for thereafter in the same manner as such liabilities were accounted for on September 30, 1991, until satisfied in accordance with their terms.

"(e) Notwithstanding any other provision of law, all shares of capital stock of the Rural Telephone Bank as they existed on the books and records of the telephone bank as of September 30, 1991, together with shares of capital stock issued by the telephone bank after such date, shall not be liquidated or retired except in accordance with the provisions of this title, whether in the liquidating or financing account of the telephone bank, but shall remain as capital stock of the telephone bank and be accounted for thereafter in the same manner as such capital stock was accounted for on September 30, 1991, until retirement or liquidation under this title."

SEC. 4. EFFECTIVE DATE.

This Act takes effect on October 1, 1992, or the date of the enactment of this Act, whichever is later.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 20 minutes, and the gentleman from California [Mr. HERGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

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

Mr. Speaker, H.R. 5954 would amend the Rural Electrification Act of 1936 in order to clarify the status of the rural telephone bank and the application of the Federal Credit Reform Act to the bank. This legislation is essential in maintaining the status quo for the rural telephone bank in order for rural Americans to have up-to-date telecommunications facilities at reasonable rates.

Let me explain further—the Federal Credit Reform Act was part of the Omnibus Budget Reconciliation Act of 1990 and was designed to measure more accurately the costs of Federal credit programs; place the cost of credit programs on a budgetary basis equivalent to other Federal spending; and improve the allocation of resources among credit programs and between credit and other spending programs. Under this bill, there are no objections with these legitimate objectives. The objections arise is the misapplication of Federal Credit Reform to the rural telephone bank by REA and, ultimately, the Office of Management and Budget.

The rural telephone bank was created by Congress in 1971 as an instrumentality of the United States:

To furnish assured and viable sources of supplementary financing with the objective that the Bank will become an entirely privately owned, operated, and financed corporation.

The ultimate beneficiary of the rural telephone bank is the rural consumer in reasonable rates and up-to-date telecommunications facilities. The RTB was structured as a unique Federal institution to ensure an affordable credit source always remained available to rural Americans seeking to improve and update their telecommunications services. The bank is a mixed ownership Government corporation with three classes of stock owned by the Federal Government, class A stock; private borrowers, class B stock; and other corporations and public bodies, class C stock. Under the law, the bank will begin to redeem and retire class A stock—that stock owned by the Federal Government—as soon as practicable after September 30, 1995, in order to privatize. This bank is working exactly as intended and has greatly benefited rural Americans.

However, because of the unique nature of the rural telephone bank in the fact that it is a mixed Government ownership corporation containing a substantial amount of private capital with private stockholders and the fact that it was designed to have low-cost embedded capital in order to provide low-interest loans to rural telephone companies, special care is due when the Federal Credit Reform Act is being applied to the rural telephone bank.

H.R. 5237, the Rural Electrification Administration Improvement Act of 1992, which passed the House of Representatives on August 5, included a provision to remedy the problems associated with the application of credit reform to the rural telephone bank when it was introduced. During mark-up in the Agriculture Committee, this provision was removed at the request of the Budget Committee due to their interest in working out the problems regarding the application of credit reform to the rural telephone bank. Those negotiations were pursued by the Budget Committee and ultimately the Budget Committee was not satisfied with the result. In other words, without this legislation the Office of Management and Budget and the Rural Electrification Administration would be allowed to continue down its course of misapplying credit reform for philosophical and political reasons and to the detriment of rural America.

Without a legislative remedy, OMB and the rural telephone bank would misapply Federal Credit Reform Act and the following would take place:

First, the interest rate would increase at least 3 percentage points according to testimony by REA;

Second, the entire bank would be swept into the general fund of the Treasury raising constitutional problems under the fifth amendment takings clause;

Third, the private stock held by private stockholders would be lost to the Treasury or completely devalued;

Fourth, REA would establish a dual interest rate structure—one for new loans and another for previously advanced loans; and

Fifth, the embedded capital and repayments of principal and interest would be walled off from the bank preventing it from continuing to make loans at its costs of money as is mandated by the RE Act.

This is all according to the Administrator of the Rural Electrification Administration and is included in a letter to me dated September 17, 1992.

The committee does not believe that it was the intent of Congress to dismantle the RTB when the Federal Credit Reform Act was passed. In fact, FCRA was not intended to make any substantive changes in any Federal credit program. Our colleagues in the Senate are concerned with this same issue and have cosigned a letter to Secretary of Agriculture Edward Madigan, protesting OMB's interpretation of the FCRA as it is being applied to the bank. The letter states that they are prepared to seek a legislative remedy to the situation as well.

COMMITTEE INTENT

The committee intends by this bill to preserve the status quo of the rural telephone bank as it existed on September 30, 1991. The legislation is intended to preserve the bank's single interest rate formula as defined in section 408(b)(3). The committee also intends that the bank's embedded low-cost capital structure be preserved. The legislation requires that the bank's assets, liabilities, and equity be maintained in accordance with generally accepted accounting principles. It is also the legislation's intent that unobligated balances of the RTB should not be transferred to the Treasury or the general fund but shall remain as assets of the bank. REA and the bank were instructed accordingly in the conference report accompanying the bill, H.R. 2698, the bill making appropriations for Agriculture, Rural Development, Food and Drug Administration and related agencies' programs for the fiscal year ending September 30, 1992. The committee agrees with that instruction. In addition, the bank is audited pursuant to the Government Corporation Control Act by the General Accounting Office. The bank's outside accounting auditors should continue to satisfy themselves that the bank's accounting practices meet the standards enumerated in this legislation in order to protect the investment in the bank of the Federal Government and private stockholders.

Therefore, the Agriculture Committee and the Budget Committee have worked out legislative language which is being offered today. This legislation will correct the problems associated with the misapplication of credit reform to the bank. I ask my colleagues to support H.R. 5954.

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

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

Mr. Speaker, I rise in support of H.R. 5954 and urge its adoption by the House.

Although the credit reform legislation we adopted in the 1990 budget act was essentially sound law, it has had at least one unintended consequence that we must correct today. That is the eventual liquidation of the rural telephone bank, a quasi-government lending institution operated with the Rural Electrification Administration. Companion legislation is moving in the other body, and I believe that we can enact this necessary legislation prior to adjournment.

Unfortunately, the RTB is being treated as if it were a Federal revolving loan fund when in fact it is substantially owned by private entities and will be fully privatized in the future. To maintain the viability of the bank, the Congress must adopt this legislation today.

It will maintain the capital structure of the rural telephone bank as the Congress intends and require that all future loan payments will be available for future bank lending activities. It also will prohibit the sweeping of any cash that may not be needed in any funding cycle.

I should point out to my colleagues that the bill does not change any of the reformed accounting procedures established by credit reform. It merely retains the status quo of the bank; all interest rate subsidies will be fully accounted for and funded in annual appropriations acts.

Mr. Speaker, I urge adoption of H.R. 5954.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGLISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. ENGLISH] that the House suspend the rules and pass the bill, H.R. 5954, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5954, the bill just passed.

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

There was no objection.

ED JENKINS NATIONAL RECREATION AREA

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6000) to redesignate Springer Mountain National Recreation Area as "Ed Jenkins National Recreation Area."

The Clerk read as follows:

H.R. 6000

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

SECTION 1. REDESIGNATION.

Springer Mountain National Recreation Area in the Chattahoochee National Forest, in the State of Georgia, is hereby redesignated as "Ed Jenkins National Recreation Area."

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to Springer Mountain Recreation Area is deemed to be a reference to Ed Jenkins National Recreation Area.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

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

Mr. Speaker, the Agriculture Committee recommends the passage of H.R. 6000, to rename Springer Mountain National Recreation Area in Georgia as the Ed Jenkins National Recreation Area.

It gives me great pleasure to rise today and ask the House to honor one of its most distinguished Members. As you know, ED JENKINS will be leaving us this year after 16 years of splendid service to the Ninth District of Georgia and to the U.S. House of Representatives.

ED was first elected to Congress in 1976. He was one of only four freshmen chosen to serve on the Ways and Means Committee and the Trade Subcommittee where he continues to work. In that capacity he has served as a designated

official adviser to U.S. delegations to all international conferences relating to trade agreements. He also serves on the Oversight Subcommittee of Ways and Means.

He served three 2-year terms on the House Budget Committee. And during 1987, he was the only noncommittee chairman selected by the Speaker to serve on the Select Committee To Investigate Covert Arms Transactions With Iran.

In leadership roles, ED has served as codean of the Georgia delegation since 1985; as textile caucus chairman for three terms; as at-large whip for three Congresses; and as Democratic caucus cochair of the task force on international competitiveness.

Mr. Speaker, ED has earned a reputation in Congress as a negotiator; working behind the scenes to effect compromises on major pieces of legislation. His legislative priorities have been on tax and trade issues, pushing for equitable tax treatment and fair tariff protection for the textile industry so important to his native Georgia.

ED has also worked diligently to leave the legacy of the north Georgia mountains to the Ninth District and to the Nation. From 1984 to 1991, ED successfully sponsored bills to provide special protection for nearly 90,000 acres in the Chattahoochee National Forest in north Georgia.

A measure sponsored by Mr. JENKINS and enacted last year included the designation of the Springer Mountain National Recreation Area. The area's diversified natural attractions offer multirecreational uses from wilderness hiking, hunting, and fishing to developed campgrounds and programs. Adjoining State-managed park lands feature lodges and staff offering interpretative botanical, wildlife, and historical programs.

The bill before us today, H.R. 6000, will appropriately rename Springer Mountain National Recreation Area as the Ed Jenkins National Recreation Area. It was passed unanimously from the full committee last week.

I cannot think of anyone more deserving of public recognition than my colleague from Georgia, the man who made the recreation area possible through his own dedication to the protection of Georgia's natural resources.

For ED's 16 years of service in the Congress and his tireless efforts to preserve the natural beauty that is the Chattahoochee National Forest, I recommend that the House suspend the rules and pass H.R. 6000.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Chair will be delighted to know that I do not intend to use the 20 minutes the Chair has granted, but I do rise to say that we on this side support the redesignation of the Springer Mountain National Recreation Area, and think no one is more deserving of this rededication than ED JENKINS.

I urge the House to adopt H.R. 6000.

Mr. ENGLISH. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I rise in strong support of H.R. 6000, a bill designating the Ed Jenkins National Recreation Area.

Mr. Speaker, a number of years ago President Truman said, "If you want a friend in Washington, you better buy a dog."

Those of us who are in Washington and who come here frequently and go back to our districts over the weekend unfortunately do not make as many friends as we would like, because we are so busy doing our duties and being here in Congress, working and sometimes competing so much with our colleagues to get our jobs done; however, I have been fortunate, as well as many other Members of the House of Representatives have been fortunate, in having a true friend here, and that, of course, is ED JENKINS.

So I am pleased today to join in this tribute to him to designate this very beautiful forest area in his name and in his honor.

I feel like so many people in this House, a sense of great loss that ED is leaving us, but we know that he will remain our friend and he will remain available to us with his wise council and advice.

Mr. Speaker, this House of Representatives could pay a no more fitting tribute to ED JENKINS than the action which we take today. In 1991, Congressman JENKINS introduced his third bill to protect the natural resources of the north Georgia mountains, the Chattahoochee National Forest Protection Act. When this measure became law last year, it created the very valuable and scenic recreation area at Springer Mountain which we designate in his honor today.

The north Georgia mountains have been home to ED JENKINS all his life. He was educated in north Georgia. His family's roots are in north Georgia. He has represented the people of north Georgia in these mountains in the House of Representatives with great distinction and integrity. It is especially appropriate that his wise and progressive leadership be symbolized by the preservation of this majestic piece of Georgia landscape now called Springer Mountain.

Mr. Speaker, I commend the gentleman from Oklahoma for bringing this measure to the floor today, and wish our good friend, ED JENKINS, his wife, Jo, and all his family success in all their future endeavors.

Mr. ENGLISH. Mr. Speaker, I yield as much time as he may consume to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Oklahoma for yielding me this time.

Mr. Speaker, I am pleased to rise in support of H.R. 6000.

□ 1540

Mr. Speaker, this bill would rename Springer Mountain National Recreation Area in Georgia as the Ed Jenkins Recreation Area. It is fitting and appropriate that this area be named after the gentleman from Georgia [Mr. JENKINS] because he has worked tirelessly to protect our beautiful land in this great State of Georgia.

Mr. Speaker, the gentleman from Georgia [Mr. JENKINS] will be leaving the Congress. He has been a real friend, and I cannot and will not forget his friendship. He will be missed from Congress for he is known for his power of persuasion, he zeal for fairness, his understanding of our diverse communities, and his ability to work behind the scenes to build consensus on the big issues.

Mr. Speaker, when the gentleman from Georgia [Mr. JENKINS] leaves Congress, he will leave a legacy of one who has worked hard, listened well, and made a difference. He is known for his trade and tax expertise, but he is also a man of conscience who has supported fairness and justice for people in this country and around the world.

ED JENKINS comes from the Appalachian Mountain district of Georgia. I know him and I know his district. He understands how important it is to leave this world a little cleaner and a little greener for unborn generations.

I support H.R. 6000 because the mountains of Georgia have always meant so much to ED JENKINS. This bill is a meaningful and beautiful way to thank him for all of his good work.

Mr. Speaker, I thank the gentleman from Oklahoma [Mr. ENGLISH] for having yielded this time to me.

Mr. THOMAS of Georgia. Mr. Speaker, I was pleased to be an original cosponsor of H.R. 6000, a bill which will redesignate Springer Mountain National Recreation Area in north Georgia as the Ed Jenkins National Recreation Area. This legislation was passed by the House on September 29 by voice vote.

This is a well-deserved honor for ED after his 16 years of outstanding service to the people of the Ninth Congressional District of Georgia.

Many Members of the House will remember ED for his distinguished work on the Committee on Ways and Means and the Committee's Trade Subcommittee. He has consistently been a champion for tax relief for middle- and lower-class taxpayers and the small businessowner.

Additionally, he has served as an important adviser to U.S. delegations to all international conferences, meetings, and negotiation sessions relating to trade agreements.

ED's focus in the House, however, has not solely been on fiscal matters. He has taken an active interest in preserving the scenic moun-

tain areas in his district so that present and future generations can enjoy them. The Ninth District Congressman has passed three bills through Congress that protect close to 9,000 acres of the Chattahoochee National Forest.

In 1991, one of ED's bills created the Springer Mountain National Recreation Area. This tract of 23,330 acres offers multirecreational uses including wilderness hiking, hunting, fishing, and campground areas.

As a tribute to ED for the legacy of good works that he leaves behind for the people of the Ninth District of Georgia, I am an enthusiastic supporter of renaming the Springer Mountain National Recreation Area as the Ed Jenkins National Recreation Area.

Mr. ENGLISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from Oklahoma [Mr. ENGLISH] that the House suspend the rules and pass the bill, H.R. 6000.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6000, the bill just passed.

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

There was no objection.

DESIGNATING CERTAIN LAND AS PART OF MARK TWAIN NATIONAL FOREST

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6014) to designate certain land in the State of Missouri owned by the United States and administered by the Secretary of Agriculture as part of the Mark Twain National Forest.

The Clerk read as follows:

H.R. 6014

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

SECTION 1. The boundary of the Mark Twain National Forest in the State of Missouri is modified to include all lands in Boone and Callaway Counties within the Cedar Creek Purchase Unit as generally depicted on a map entitled "Mark Twain National Forest Addition, June 1992" which map is on file and available for public inspection in the Office of the Chief, Forest Service, Washington, District of Columbia.

SEC. 2. All lands now or hereafter owned by the United States and administered by the Secretary of Agriculture within the Cedar Creek Purchase Unit, which by this Act are made a part of the Mark Twain National Forest in Missouri, shall be subject to the Weeks Act of March 1, 1911 (36 Stat. 961) as amended, and to all laws, rules, and regulations applicable to the National Forest System.

SEC. 3. The lands added to the Mark Twain National Forest by this Act shall be administered by the Secretary of Agriculture as the Cedar Creek Ranger District: *Provided*, That nothing in this section shall limit the authorities of the Secretary under section 11 of the Weeks Act (16 U.S.C. 521) to modify administration of this area at any time.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

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

Mr. Speaker, the Committee on Agriculture recommends the passage of H.R. 6014, a bill to designate certain federally owned land in the State of Missouri as part of the Mark Twain National Forest.

Specifically, the bill will modify the boundary of the Mark Twain National Forest to include an area known as the Cedar Creek purchase unit, which is located in Boone and Callaway Counties, MO. The unit is currently managed by the Forest Service as though it was a part of the Mark Twain, although it is outside the exterior boundaries of the national forest.

The purpose of H.R. 6014 is simply to adjust the forest boundary to include the purchase unit, thus improving administrative efficiency for the Forest Service.

This bill was introduced by Representative HAROLD VOLKMER of Missouri after consultation with the Forest Service and local citizens. The boundary adjustment is supported by commissioners in both affected counties, local public schools, the Conservation Federal of Missouri, and the Cedar Creek Grazing Association.

The Agriculture Committee approved the bill last week by voice vote, with no objections, and I urge the house to suspend the rules and pass H.R. 6014.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6014.

This legislation will designate certain lands in the State of Missouri owned by the U.S. Government as part of the Mark Twain National Forest. The boundary of the Mark Twain National Forest would be modified to include all lands in Callaway and Boone Counties within the Cedar Creek purchase unit. These lands would become part of the National Forest System lands.

I urge the House to adopt this legislation.

Mr. VOLKMER. Mr. Speaker, I urge the House to approve H.R. 6014 today. This measure will simplify administration of the Mark Twain National Forest in Missouri and provide equity for Boone and Callaway Counties in the distribution of receipts brought in by the Forest Service.

The area that is the subject of this bill consists of certain lands in Boone and Callaway Counties, MO, known as the Cedar Creek purchase unit. The unit has been administrated by the Department of Agriculture's Forest Service since 1973 as though it were a part of the Mark Twain National Forest.

The unit is currently outside the exterior boundaries of the Mark Twain National Forest, and the purpose of H.R. 6014 is simply to adjust the forest boundary to include the purchase unit. The bill would place the Federal lands within the unit under the same set of laws and regulations that applies to the other national forest lands in the State.

In addition to increased administrative efficiency for the Forest Service, this boundary modification will enable the two counties to receive an equitable share of the payments provided to the State of Missouri out of national forest receipts collected in the State.

I have discussed this matter with the Forest Service at both the local level and the Washington Office, and they concur that this boundary adjustment is logical. According to the Chief of the Forest Service, the change would enhance the opportunities for recreation, grazing, and other current uses, and overall enjoyment of the area.

I have also communicated with local individuals and organizations in Missouri who are united in their support for the change. County commissioners representing both Boone and Callaway Counties, the Fulton Public Schools, the Cedar Creek Grazing Association, and the Conservation Federation of Missouri all support this action.

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

Mr. ENGLISH. Mr. Speaker, I, too, have no requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. ENGLISH] that the House suspend the rules and pass the bill, H.R. 6014.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6014, the bill just passed.

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

There was no objection.

CEDAR RIVER WATERSHED LAND EXCHANGE ACT OF 1992

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5605) to authorize and direct land ownership consolidation in the Cedar River Watershed, Mount Baker-Snoqualmie National Forest, WA, as amended.

The Clerk read as follows:

H.R. 5605

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cedar River Watershed Land Exchange Act of 1992".

SEC. 2. CEDAR RIVER WATERSHED, WASHINGTON.

(a) IN GENERAL.—If the city of Seattle, Washington, agrees to convey lands to the United States in accordance with this section, the Secretary of Agriculture, in exchange for such lands, shall agree to convey to the City the Federal exchange lands.

(b) EXCHANGE FOR CITY LANDS.—

(1) APPRAISAL OF FEDERAL LANDS.—Not later than nine months after the date of enactment of this Act, the Federal exchange lands shall be appraised and the results of the appraisal transmitted to the Secretary and the City.

(2) OFFER OF CITY LANDS AND APPRAISAL.—

(A) CANDIDATE CITY LANDS.—Within 60 days after the receipt of the appraisal under paragraph (1), the City shall submit to the Secretary a list of candidate lands for conveyance to the United States under this section. Such candidate lands shall be selected by the City from the City lands.

(B) ACCEPTABLE CITY LANDS.—Not later than three months after receipt of the list of candidate lands under subparagraph (A), the Secretary shall determine, in the discretion of the Secretary, which of the candidate City lands to accept. Such lands acceptable to the Secretary shall be appraised within 90 days after such determination and the results of the appraisal transmitted to both the Secretary and the City. The Secretary shall accept lands included on such list unless the lands are not valuable for purposes of the National Forest System, including management as contiguous units with other National Forest System lands.

(3) CONSUMMATION OF EXCHANGE OF INITIAL PARCELS.—Not later than two years after the date of enactment of this Act, the Secretary shall transfer to the City parcels of the Federal exchange lands with a total value approximately equal to the value of the City lands the Secretary determines acceptable under paragraph (2). The Secretary may also accept money to equalize the value of the lands involved in the exchange, subject to subsection (f)(2).

(c) EQUALIZATION FOR REMAINING FEDERAL EXCHANGE LANDS.—If the value of the City lands conveyed and money accepted under subsection (b) is not equal to the value of all of the Federal exchange lands, the following provisions shall apply:

(1) WAIVER BY THE CITY.—In the event the value of the City lands conveyed under subsection (b) is greater than the value of all of the Federal exchange lands, any cash equalization which might otherwise be owed to the City by the United States shall be waived.

(2) IDENTIFICATION OF EQUALIZATION LANDS AND MONEY BY THE CITY.—

(A) IN GENERAL.—In the event the value of the City lands conveyed and money accepted under subsection (b) is less than the value of all of the Federal exchange lands, the City shall, within five years after the date of initial consummation of the exchange under subsection (b), submit to the Secretary a list of lands, an amount of money, or a combination thereof which has in the aggregate a value equal to the difference in value between the City lands exchanged under subsection (b) and the value of all of the Federal exchange lands.

(B) FOREST LANDS.—Any lands included on the list pursuant to subparagraph (A) shall consist only of a tract or tracts of land within or adjacent to national forests in the State of Washington which have been—

(i) mutually identified by the Secretary and the City in advance of their inclusion on the list as acceptable to the Secretary for transfer to the United States;

(ii) appraised in accordance with this section within 90 days after their identification under clause (i); and

(iii) acquired or will be acquired by the City from a willing seller or sellers.

(3) COMPLETION OF EXCHANGE.—Not later than the end of the five-year period specified in paragraph (2)(A), the Secretary shall convey to the City the remaining Federal exchange lands in exchange for the conveyance by the City to the Secretary of lands and money acceptable to the Secretary for transfer to the United States pursuant to paragraph (2).

(d) APPRAISALS.—

(1) FINDING.—The Congress finds that use restrictions on the Cedar River Watershed imposed by Public Law 97-350 (96 Stat. 1661) coupled with the uncertainties surrounding the status of the lands as habitat for the northern spotted owl currently make appraisal of such lands difficult or unfeasible absent specific guidance from Congress.

(2) APPRAISAL ASSUMPTIONS.—(A) Except as otherwise provided by this subsection, lands to be exchanged pursuant to this section shall be appraised by an appraiser mutually acceptable to the City and the United States in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) Federal exchange lands shall be appraised for the purposes of this section in a manner that reflects the deed restrictions imposed on the lands by subsection (e) and other applicable laws, rules, and regulations. Both Federal exchange lands and City lands located within Critical Habitat Units for the northern spotted owl (as identified by the United States Fish and Wildlife Service, January 1992) shall be appraised as if subject to the deed restrictions under subsection (e).

(3) COSTS.—All costs of the appraisals shall be borne by the City.

(4) REQUIREMENT LIMITATION.—After an appraisal of lands for the purposes of this Act is accepted by both the Secretary and the City, such lands may not be appraised again for the purposes of this Act during the seven year period beginning on the date of enactment of this Act.

(e) DEED RESTRICTIONS.—The patent or other instrument of conveyance issued to the City for the Federal exchange lands conveyed under this section shall be restricted to provide the following prohibitions:

(1) The disposal of the lands or harvest of late-successional or old-growth timber, except for any timber sale or salvage sale approved before October 1, 1992, shall be prohibited.

(2) The disposal of land or harvest of timber and the construction of roads, structures, or other developed facilities on any such lands within the area identified as Critical Habitat Unit WA-33 (as identified by the United States Fish and Wildlife Service, January 1992), shall be prohibited except for routine maintenance of existings roads, trails, and drainage structures, and except as necessary to meet minimum requirements for the administration of the area to protect water quality or public health and safety, to maintain existing roads and trails, to help protect biological diversity or threatened or endangered species, or to regenerate old-growth forest ecosystems in second growth areas.

(f) OTHER GENERAL PROVISIONS CONCERNING EXCHANGE.—

(1) LANDS WITH SENSITIVE ENVIRONMENTAL VALUES.—The Secretary may not reject lands suggested for conveyance by the City under this section solely on the basis that such lands contain sensitive environmental values (including but not limited to old-growth forest or threatened or endangered species habitat).

(2) LIMITATION ON AMOUNT OF MONETARY PAYMENT.—In carrying out the exchange of lands under this section, the amount of money paid to the United States under this section may not exceed 25 percent of the total value of the Federal exchange lands.

(3) SISK ACT.—Any money received by the United States pursuant to this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (Public Law 90-171, 16 U.S.C. 484a, commonly known as the "Sisk Act").

(4) SPECIAL RULE.—Determinations made by the Secretary in carrying out this section shall not be considered as decisionmaking.

(g) INCLUSION OF LANDS IN APPROPRIATE SYSTEM OR UNIT.—Lands acquired by the United States pursuant to this section shall be added to and become a part of the National Forest System or, as appropriate, such other system or area within which such lands are located and shall be administered as part of such System, unit, or area as provided by section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)). If any such lands lie outside the exterior boundaries of a national forest, the Secretary is hereby authorized and directed to modify the exterior boundaries of such forest to include such lands.

(h) INTERIM MANAGEMENT.—In order to protect the quality of drinking water and other values in the Cedar River Watershed during the period before the land exchange authorized and required by this section is completed, the Secretary of Agriculture shall manage the National Forest System lands within the hydrographic boundaries of the watershed to—

(1) prohibit public access to the watershed, except to—

(A) allow access only for the discharge of official duties related to the management of the Mt. Baker-Snoqualmie National Forest by Federal employees, holders of Forest Service contracts, and agents of the Forest Service; and

(B) allow access by officials of the City of Seattle and others authorized by the City; and

(2) maintain or improve existing characteristics of the watershed, including prohibiting the harvest of late-successional or old-growth timber, except for any timber sale or salvage sale approved before October 1, 1992.

(i) DEFINITIONS.—For the purposes of this section:

(1) CITY.—The term "City" means the city of Seattle, Washington.

(2) CITY LANDS.—The term "City lands" means approximately 17,587 acres of lands eligible to be conveyed by the City under this section, as generally described in "Cedar River Land Exchange: City of Seattle Water Department Offered Lands", dated September 1, 1992.

(3) EQUALIZATION LANDS.—The term "equalization lands" means any lands conveyed to the United States under subsection (c)(2) for the purpose of equalizing the difference in value between the City lands accepted by the Secretary under subsection (b) and the Federal exchange lands.

(4) FEDERAL EXCHANGE LANDS.—The term "Federal exchange lands" means the approximately 16,963 acres of lands owned by the United States located in the Cedar River Watershed in King County, Washington, as generally depicted on a map entitled "Cedar River Exchange-Forest Service Selected Lands" dated September 1, 1992.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

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

Mr. Speaker, I rise in support of H.R. 5605, as amended, and urge my colleagues to support its passage.

H.R. 5605, the Cedar River Watershed Land Exchange Act of 1992, provides for the transfer of forest lands in the Cedar River watershed of the Mount Baker-Snoqualmie National Forest in Washington State, to the city of Seattle. In return, the city is to provide the Secretary of Agriculture with lands of equal value and, if necessary, such funds as may be required to equalize the value of the lands so exchanged.

Mr. Speaker, this legislation is necessary to finally complete efforts to implement an agreement between the city of Seattle and the U.S. Forest Service which was consummated in 1962.

That agreement provided that the objective of the city is to obtain complete ownership and control of the Cedar River watershed, "so as to insure in perpetuity its management of the water and forest resources." In return, the Forest Service stated that its "ultimate objective within the—watershed—is to exchange national forest lands therein to the city in order thereby to consolidate national forest holdings elsewhere".

Despite efforts during the last three decades to consummate the exchanges provided by this agreement, only a portion of the 16,963 acres the city seeks to acquire from the Forest Service has been exchanged.

The city currently owns 81 percent of the lands in the Cedar River watershed. Given the importance of these lands for maintaining the purity of the drinking water which comes from these lands, it is anxious to obtain the remaining lands currently administered by the Forest Service.

H.R. 5605 would facilitate this exchange, but would do so in a manner that protects the interests of both the city and the Federal Government. Federal lands would be transferred to the city only to the extent that the city and the Forest Service are able to agree on candidate lands that the city offers the Forest Service for exchange. An initial list of lands, previously acquired by the city for this purpose with the concurrence of Forest Service officials, will serve as the first source of exchange lands. Should the value of these tracts not be sufficient to equalize the value of the Federal exchange lands, then, by mutual agreement, additional tracts of land would subsequently be identified by the city and exchanged with the Forest Service until land values have been equalized. If necessary in carrying out these exchanges, the city may pay up to 25 percent of the total value of the Federal exchange lands.

Mr. Speaker, I want to commend our colleague, Mr. MCDERMOTT, the city of Seattle, and the Forest Service for their efforts in developing this legislation. I also want to thank the chairman of the Committee on Interior and Insular Affairs, Mr. MILLER, and Interior Subcommittee Chairman VENTO for their help in expediting consideration of this bill.

Mr. Speaker, I urge the Members to support passage of H.R. 5605, as amended.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5605.

This legislation would direct the Forest Service to exchange lands with the city of Seattle; which has been working with the Forest Service for several decades to consolidate ownership in the Cedar River watershed. The city of Seattle owns all but 17,000 acres within the watershed and would exchange lands of equal value elsewhere to complete the exchange and direct ownership to the city.

The Cedar River watershed provides the primary source of water to more than 1.2 million residents in the Greater Seattle metropolitan area and its standard of quality would be maintained through this exchange. Anything less than this total ownership for the city may imperil the quality of water delivered to the residents and require an exorbitant expenditure to construct treatment facilities. H.R. 5605 would provide the necessary protection of the Cedar River watershed and ensure continuing water quality to the Seattle metropolitan area.

Mr. Speaker, I urge that the House adopt H.R. 5605.

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

Mr. ENGLISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, the Cedar River watershed provides pristine, unfiltered drinking water from the western slopes of the Cascade Mountains to nearly one-quarter of Washington State's residents. For nearly a century, the city of Seattle has worked to obtain complete ownership of the Cedar River watershed. As a result of this effort, the city owns 81 percent of the watershed, with the U.S. Forest Service owning the remaining few parcels of land. H.R. 5605, the Cedar River Watershed Land Exchange Act of 1992, directs a process of land exchange at fair market value between the Forest Service and the city of Seattle that will result in complete ownership by the city.

The 1.2 million residents of King County, WA, who draw their drinking water from the Cedar River support Seattle's determination to control the watershed. At stake in the city's efforts to own the watershed is the risk of having to construct water treatment facilities that cost hundreds of millions of dollars. EPA regulations acknowledge the importance of the relationship between ownership of a watershed and the ability to control water quality. As the steward of the watershed, H.R. 5605 gives the city of Seattle the complete control it needs to exercise its responsibility to maintain water quality on behalf of local residents.

In exchange, the Forest Service will receive valuable lands that are more suitable for purposes of the National Forest System. Each parcel offered by the city of Seattle was purchased with the knowledge and concurrence of the U.S. Forest Service and in accordance with a cooperative agreement signed by the city and the Forest Service in 1962. The city's offered lands possess important recreational, wildlife, fisheries, watershed, wilderness, and resource extraction values desirable for acquisition by the United States. It should be noted that H.R. 5605 requires the Forest Service to accept only the lands that it desires, despite previous documented interest from the Forest Service in all parcels offered by the city.

I want to emphasize my belief that this bill provides the lasting benefits to the city of Seattle, and the general public, and in the protection of our natural resources. The Federal lands in the Cedar River watershed are individual parcels separated from each other and isolated from the National Forest System. The Nation benefits little from being minority owners of scattered parcels of lands in a watershed that will be off limits to all uses other

than the protection of water quality for the city of Seattle. This bill simplifies management of the lands by establishing a single owner, gives Seattle the control it needs to maintain water quality, and offers the Nation substitute lands that meet the Forest Service's mandate to accommodate all potential uses of our natural resources.

In closing, I would like to point out to my colleagues that the history of Seattle's pursuit for ownership of its watershed is itself without precedent anywhere in the country. The city owns 81 percent of the watershed; it has purchased 17,500 acres of land, with Forest Service approval, to exchange with the Forest Service; it has negotiated an agreement with the Forest Service to accomplish this goal; and it has previously received encouragement from the Congress to follow this path.

I want to recognize and thank Representatives DE LA GARZA and VOLKMER, and their respective staffs for their efforts on behalf of this legislation. I urge my colleagues to support this bill and yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 5605 and commend Chairman VOLKMER and Mr. MCDERMOTT for their work on this bill which was jointly referred to the Committee on Interior and Insular Affairs and the Committee on Agriculture.

Originally, I had some concerns about this legislation. These concerns have been addressed in the language before us today. The bill now requires that the exchange between the Forest Service and the city of Seattle be an equal value exchange and that the lands involved be formally appraised using the uniform appraisal standards that are based on current law. Furthermore, the new language now requires that lands going into the National Forest System be worthy additions appropriate for national forest status and that the Forest Service be consulted and have final determination on which lands these should be.

Because of these improvements in the bill, I can now urge my colleagues to support the bill, as amended.

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Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGLISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from Oklahoma [Mr. ENGLISH] that the House suspend the rules and pass the bill, H.R. 5605, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5605.

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

There was no objection.

INTERNATIONAL NARCOTICS CONTROL ACT OF 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6018) to amend the Foreign Assistance Act of 1961 with respect to international narcotics control programs and activities, and for other purposes.

The Clerk read as follows:

H.R. 6018

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Narcotics Control Act of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Authorizations of appropriations.
Sec. 4. Amendments relating to certain authorities and requirements.
Sec. 5. Annual reporting and certification requirements.
Sec. 6. Technical, conforming, and other amendments; repeal of obsolete provisions.
Sec. 7. Exemption of narcotics-related military assistance for fiscal years 1993 through 1995 from prohibition on assistance for law enforcement agencies.
Sec. 8. Waiver of restrictions for narcotics-related economic assistance.
Sec. 9. Transfers of excess defense articles for counternarcotics purposes.
Sec. 10. Participants in international military education and training programs.
Sec. 11. Definition of appropriate congressional committees.
Sec. 12. Export-Import Bank financing of sales of defense articles or services.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$115,000,000 for fiscal year 1990" and inserting in lieu thereof "$171,500,000 for fiscal year 1993, $171,500,000 for fiscal year 1994, and $171,500,000 for fiscal year 1995".

SEC. 4. AMENDMENTS RELATING TO CERTAIN AUTHORITIES AND REQUIREMENTS.

(a) POLICY STATEMENT.—Section 481 of the Foreign Assistance Act of 1961 is amended by striking out the section designation and section heading and subsection (a)(1) and inserting in lieu thereof the following:

"SEC. 481. POLICY, GENERAL AUTHORITIES, COORDINATION, FOREIGN POLICE ACTIONS, DEFINITIONS, AND OTHER PROVISIONS.

"(a) POLICY AND GENERAL AUTHORITIES.—

"(1) STATEMENTS OF POLICY.—(A) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

"(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

"(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

"(D) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

"(E) The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

"(F) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.".

(b) AUTHORITY TO CONCLUDE AGREEMENTS.—Section 481(a)(2) of that Act is amended by inserting ", including reciprocal maritime agreements," after "agreements".

(c) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—Section 481(b) of that Act is amended to read as follows:

"(b) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—

"(1) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

"(2) RULE OF CONSTRUCTION.—Nothing contained in this subsection or section 489(b) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.".

(d) MARITIME LAW ENFORCEMENT IN ARCHIPELAGIC WATERS.—Section 481(c)(4) of that Act is amended by inserting "or archipelagic waters" after "sea".

(e) PROCUREMENT OF WEAPONS AND AMMUNITION.—Section 482(b) of that Act is amended to read as follows:

"(b) PROCUREMENT OF WEAPONS AND AMMUNITION.—

"(1) PROHIBITION.—Except as provided in paragraph (2), funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to funds for the procurement of—

"(A) weapons or ammunition provided only for the defensive arming of aircraft used for narcotics-related purposes, or

"(B) firearms and related ammunition provided only for defensive purposes to employees or contract personnel of the Department of State engaged in activities under this chapter,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.".

(f) REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.—

(1) RETENTION OF TITLE.—Section 484 of that Act is amended to read as follows:

"SEC. 484. REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.

"(a) RETENTION OF TITLE TO AIRCRAFT.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this chapter, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

"(2) EXCEPTIONS.—(A) Paragraph (1) shall not apply to the extent that—

"(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and

"(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

"(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

"(3) ASSISTANCE FOR LEASING OF AIRCRAFT.—(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act may be used to finance the leasing of aircraft under chapter 6 of that Act.

"(B) Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

"(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.".

(2) PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.—Chapter 8 of part I of that Act is amended—

(A) by striking out the section designation and section heading of section 489;

(B) in subsection (a) of section 489, by striking out "IN GENERAL" and inserting in lieu thereof "PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT";

(C) in subsection (b) of section 489 by striking out "subsection (e)" and inserting in lieu thereof "section 489(a)";

(D) by redesignating subsections (a) and (b) of section 489 as subsections (b) and (c) of section 484 and inserting those subsections after subsection (a) of section 484 (as amended by paragraph (1) of this subsection); and

(E) by repealing subsections (c) and (d) of section 489.

(3) RECORDS OF AIRCRAFT USE.—Section 485 of that Act is amended by striking out "Secretary of State" both places it appears and inserting in lieu thereof "President".

(g) ACQUISITION OF REAL PROPERTY; CONSTRUCTION OF FACILITIES.—Section 488 of that Act is amended to read as follows:

"SEC. 488. LIMITATIONS ON ACQUISITION OF REAL PROPERTY AND CONSTRUCTION OF FACILITIES.

"(a) ACQUISITION OF REAL PROPERTY.—

"(1) PROHIBITION.—Funds made available to carry out this chapter may not be used to acquire (by purchase or other means) any land or other real property for use by foreign military, paramilitary, or law enforcement forces.

"(2) EXCEPTION FOR CERTAIN LEASES.—Paragraph (1) shall not apply to the acquisition of real property by lease of a duration not to exceed 3 years.

"(3) REPORT.—The Secretary of State shall provide to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after the end of each quarter of the fiscal year a detailed report on all leases entered into pursuant to paragraph (2), including the cost and duration of such lease, a description of the property leased, and the purpose for which such lease was entered into.

"(b) CONSTRUCTION OF FACILITIES.—

"(1) LIMITATION.—Funds made available to carry out this chapter may not be used for construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such construction, the President notifies the appropriate congressional committees in accordance with procedures applicable to reprogramming notifications under section 634A.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the construction of facilities which would require the obligation of less than $750,000 under this chapter.".

SEC. 5. ANNUAL REPORTING AND CERTIFICATION REQUIREMENTS.

(a) REVISION OF REQUIREMENTS FOR FISCAL YEARS 1993 THROUGH 1995.—Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by the preceding section of this Act, is amended by adding at the end the following:

"SEC. 489. REPORTING REQUIREMENTS FOR FISCAL YEARS 1993 THROUGH 1995.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—Not later than April 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report containing the following:

"(1) For each country that received assistance under this chapter for either of the 2 preceding fiscal years, a report on the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including appropriate information on the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

"(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries. The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(3) The identity of those countries which are—

"(A) major illicit drug producing countries or major drug-transit countries as determined under section 490(h);

"(B) the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States;

"(C) major sources of precursor chemicals used in the production of illicit narcotics; or

"(D) major money laundering countries.

"(4) In addition, for each country identified pursuant to paragraph (3), the following:

"(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

"(B) Whether as a matter of government policy, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of pro-

ceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

"(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

"(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

"(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

"(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

"(7) In addition, for those countries identified pursuant to paragraph (3)(D) the following:

"(A)(i) Which countries have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(ii) which countries identified pursuant to clause (i) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

"(iii) which countries identified pursuant to clause (ii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

"(B) Which countries—

"(i) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations; and

"(ii) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

"(C) Findings on each country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

"(b) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided or to be provided;

"(B) include, for each country identified in subsection (a)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

"(i) the assistance provided or to be provided to such country by that agency, and

"(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 902(33)); and

"(2) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.

"(d) EFFECTIVE DATES OF SECTIONS.—This section applies only during fiscal years 1993 through 1995. Section 489A does not apply during those fiscal years.

"SEC. 489A. REPORTING REQUIREMENTS APPLICABLE AFTER SEPTEMBER 30, 1995.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—

"(1) REQUIREMENT FOR REPORT.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances.

"(2) CONTENTS.—Each report pursuant to this subsection shall include the following:

"(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

"(B) A description of the activities of the United States in international financial institutions to combat the entry of narcotic and psychotropic drugs and other controlled substances into the United States for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

"(C) The identity of those countries which are the significant direct or indirect sources of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

"(i) A detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(ii) A description of the assistance under this chapter and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances in such country.

"(iii) A description of the plans, programs, and timetables adopted by such country for

the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

"(iv) A discussion of the extent to which such country has cooperated with United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.

"(D) For each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each such determination shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.

"(E) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, the actual reductions in illicit drug production achieved by that country during such fiscal year.

"(F) Specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have, during the preceding year, cooperated fully with such agencies (as described in section 490A(b)).

"(G) A description of the United States assistance for the preceding fiscal year which was denied, pursuant to section 490 or 490A, to each major illicit drug producing country and each major drug-transit country.

"(b) MIDYEAR REPORT.—Not later than September 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this chapter prior to such date. Such midyear report shall include the status of each agreement concluded prior to such date with other countries to carry out this chapter.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided;

"(B) include, for each country which is a significant direct or indirect source of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

"SEC. 490. ANNUAL CERTIFICATION PROCEDURES FOR FISCAL YEARS 1993 THROUGH 1995.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country (as determined under subsection (h)) shall be withheld from obligation and expenditure, except as provided in subsection (b). This paragraph shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after April 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country (as determined under subsection (h)), except as provided in subsection (b).

"(b) CERTIFICATION PROCEDURES.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489(a), that—

"(A) during the previous year the country has cooperated with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(3) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(c) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 489(a), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assist-

ance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—Subsection (e) shall apply to a country described in that subsection until—

"(1) the President, at the time of submission of the report required by section 489(a), makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(2) the President, at any other time, makes the certification described in subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

"(A) the President also certifies that—

"(i) that country has undergone a fundamental change in government, or

"(ii) there has been a fundamental change in the conditions that were the reason—

"(I) why the President had not made a certification with respect to that country under subsection (b)(1)(A), or

"(II) if he had made such a certification and the Congress enacted a joint resolution disapproving the determination contained in the certification, why the Congress enacted that joint resolution; or

"(B) the Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1)(B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

"(g) CONGRESSIONAL REVIEW PROCEDURES.—

"(1) SENATE.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(2) HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(h) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES FOR FISCAL YEARS 1993 THROUGH 1995.—Not later than January 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act.

"(i) EFFECTIVE DATES OF SECTIONS.—This section applies only during fiscal years 1993 through 1995. During those fiscal years, section 490A does not apply and the definitions provided in section 481(e)(2) and (5) do not apply.

"SEC. 490A. ANNUAL CERTIFICATION PROCEDURES AFTER SEPTEMBER 30, 1995.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in subsection (b).

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b).

"(b) CERTIFICATION PROCEDURE.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489A(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (2)) or a multilateral agreement which achieves the objectives of paragraph (2),

"(ii) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(iii) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(iv) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) BILATERAL NARCOTICS AGREEMENT.—A bilateral narcotics agreement referred to in paragraph (1)(A)(i) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(A) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(B) increase drug interdiction and enforcement;

"(C) increase drug treatment;

"(D) increase the identification of and elimination of illicit drug laboratories;

"(E) increase the identification of, and elimination of trafficking in, essential precursor chemicals for use in the illicit production of narcotic and psychotropic drugs and other controlled substances;

"(F) increase cooperation with United States drug enforcement officials; and

"(G) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(3) REQUIREMENT FOR NARCOTICS AGREEMENT FOR CERTAIN COUNTRIES.—A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under paragraph (1)(A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of paragraph (2).

"(4) INFORMATION TO BE INCLUDED IN CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(5) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under paragraph (1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(c) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by subsection (b) with respect to a country, the President shall consider the following:

"(1) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 489A(a)(2)(D)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by subsection (b)(1)(A), to whether the government of that country has taken actions which have resulted in such reductions.

"(2) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(3) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(A) the enactment and enforcement by that government of laws prohibiting such conduct;

"(B) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering; and

"(C) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(4) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the illicit production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(5) Has that government, as a matter of government policy, encouraged or facilitated the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(6) Does any senior official of that government engage in, encourage, or facilitate the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(7) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities has been the victim, since January 1, 1985, of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

"(8) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(9) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(10) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(11) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under subsection (b), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f)(1) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—

"(1) TIME OF RECERTIFICATION; CONGRESSIONAL ACTION.—Subsection (e) shall apply to a country described in that subsection until—

"(A) the President makes a certification under subsection (b) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(B) the President submits, at any other time, a certification described in subparagraph (A) or (B) of subsection (b)(1) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

"(2) CONGRESSIONAL REVIEW PROCEDURES.—(A) Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(g) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES AFTER SEPTEMBER 30, 1995.—

"(1) ESTABLISHMENT OF GUIDELINES.—For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subparagraphs (A) and (B) of section 481(e)(5).

"(2) NOTICE TO CONGRESS OF PRELIMINARY STANDARDS.—Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(3) NOTICE TO CONGRESS OF PRELIMINARY DETERMINATIONS.—Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(A) which countries have been determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(B) which countries have been determined to be major illicit drug producing countries for that year.".

(b) DEFINITION OF UNITED STATES ASSISTANCE.—Paragraph (4) of section 481(i) of that Act is amended to read as follows:

"(4) the term 'United States assistance' means—

"(A) any assistance under this Act (including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation), other than—

"(i) assistance under this chapter,

"(ii) any other narcotics-related assistance under this part (including chapter 4 of part II), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act,

"(iii) disaster relief assistance, including any assistance under chapter 9 of this part,

"(iv) assistance which involves the provision of food (including monetization of food) or medicine, and

"(v) assistance for refugees;

"(B) sales, or financing on any terms, under the Arms Export Control Act;

"(C) the provision of agricultural commodities, other than food, under the Agricultural Trade Development and Assistance Act of 1954; and

"(D) financing under the Export-Import Bank Act of 1945;".

SEC. 6. TECHNICAL, CONFORMING, AND OTHER AMENDMENTS; REPEAL OF OBSOLETE PROVISIONS.

(a) STATUTORY REFERENCES TO ANNUAL REPORTS, CERTIFICATIONS, AND DEFINITIONS.—After September 30, 1995, any reference in any provision of law to section 489 or 490 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to the corresponding provision of section 489A or 490A, respectively, unless the context requires otherwise. Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) or section 481(i) of that Act shall be deemed to be a reference to section 489 or section 481(e) (as amended by subsection (b)(3) of this section), respectively; and any reference in any provision of law enacted before the date of enactment of this Act to section 481(h) of that Act shall be deemed, as of October 1, 1992, to be a reference to section 490.

(b) TECHNICAL AND CONFORMING AMENDMENTS TO FOREIGN ASSISTANCE ACT.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) Section 481(d)(3) is amended by striking out "subsection (e)" and inserting in lieu thereof "section 489(a)".

(2) Subsections (e), (f), (g), (h), (j), and (k) of section 481 are repealed.

(3) Subsection (i) of section 481 is amended by striking out "(i) As used in this section—" and inserting in lieu thereof "(e) DEFINITIONS.—Except as provided in sections 490(h) and (i) with respect to the definition of major illicit drug producing country and major drug-transit country, for purposes of this chapter and other provisions of this Act relating specifically to international narcotics matters—".

(4) Subsection (c) of section 482 is repealed, and subsection (d) of that section is redesignated as subsection (c).

(5) Section 486 is amended—

(A) in subsection (a), in the text preceding paragraph (1), by striking out "481(h)" and inserting in lieu thereof "490"; and

(B) in subsection (b), by striking out "(relating to foreign military sales financing)" and inserting in lieu thereof "(relating to the 'Foreign Military Financing Program')".

(6) Section 487(a)(1) is amended by striking out "(as defined in section 481(i)(3) of this Act)".

(c) CONFORMING AMENDMENTS TO EXPORT-IMPORT BANK ACT.—Section 2(b)(6) of the Export-Import Bank Act of 1945 is amended—

(1) in subparagraph (B)(iii), by striking out "481(h)(5)" and inserting in lieu thereof "490(e)"; and

(2) in subparagraph (C)(ii), by striking out "defined in section 481(i)" and inserting in

lieu thereof "determined under section 490(h) or 481(e), as appropriate,".

(d) AMENDMENT TO 1989 DRUG ACT.—Section 3 of the International Narcotics Control Act of 1989 is amended by adding at the end the following:

"(j) CERTAIN FUNDING LIMITATIONS.—The dollar limitations specified in subsections (c)(1) and (d)(1) shall not apply after the date of enactment of this subsection.".

(e) REPEAL OF OBSOLETE PROVISIONS.—

(1) 1988 DRUG ACT.—All sections of the International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988) are repealed except for sections 4001, 4306, 4308, 4309, 4501, 4702, and 4804. Section 4501(b) of that Act is amended by striking out "Section 4601 of this title" and inserting in lieu thereof "Section 489(b) of the Foreign Assistance Act of 1961".

(2) 1986 DRUG ACT.—All sections of the International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986) are repealed except for sections 2001, 2010, 2015, 2018, and 2029.

SEC. 7. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEARS 1993 THROUGH 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) EXEMPTION.—For fiscal years 1993 through 1995, section 660 of the Foreign Assistance Act of 1961 shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act;

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961.

SEC. 8. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For fiscal years 1992 through 1995, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act.

SEC. 9. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR COUNTERNARCOTICS PURPOSES.

(a) CHANGES IN AUTHORITIES.—Section 517 of the Foreign Assistance Act of 1961 is amended—

(1) in the section heading, by striking out "**MILITARY CAPABILITIES OF CERTAIN MAJOR ILLICIT DRUG PRODUCING**" and inserting in lieu thereof "**COUNTERNARCOTICS CAPABILITIES OF CERTAIN**";

(2) in subsection (a)(1), by striking out "(as defined in section 481(i)(2))" and inserting in lieu thereof "or a major drug-transit country";

(3) in subsection (b)—

(A) by inserting "and local law enforcement agencies" after "military forces";

(B) by striking out "with local law enforcement agencies" and inserting in lieu thereof "cooperatively"; and

(C) by striking out "(as defined in section 481(i)(3))";

(4) in subsection (d), by striking out "4601 of the International Narcotics Control Act of 1988" and inserting in lieu thereof "481(b) of this Act";

(5) in subsection (i), by striking out "30" and inserting in lieu thereof "15"; and

(6) by adding at the end the following:

"(j) LIMITATION ON USE OF OTHER AUTHORITIES TO TRANSFER EXCESS DEFENSE ARTICLES.—The transfer authority provided in sections 518 and 519 may not be exercised with respect to any major illicit drug producing country or major drug-transit country in Latin America or the Caribbean.

"(k) EXCESS COAST GUARD PROPERTY.—As used in this section, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard, and the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.".

(b) EXCLUSION OF CONSTRUCTION EQUIPMENT FROM DEFINITION OF EXCESS DEFENSE ARTICLES.—Section 644(g) of that Act is amended by inserting "(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)" after "articles" the second place it appears.

SEC. 10. PARTICIPANTS IN INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAMS.

Section 541 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting ", and may also include legislators," after "ministries of defense"; and

(2) by striking out "or (iii)" and inserting in lieu thereof "(iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv)".

SEC. 11. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

(a) FOREIGN ASSISTANCE ACT AMENDMENTS.—Section 481(e) of the Foreign Assistance Act of 1961, as amended by the preceding provisions of this Act, is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(2) after paragraph (5) insert the following:

"(6) the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

(b) FREE-STANDING PROVISIONS OF THIS ACT.—As used in this Act, the term "appropriate congressional committees" has the definition given that term by section 481(e)(6) of the Foreign Assistance Act of 1961 (as added by subsection (a) of this section).

SEC. 12. EXPORT-IMPORT BANK FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 2(b)(6) of the Export-Import Bank Act of 1945 is amended by striking out "1992" in subparagraph (B)(vi) and inserting in lieu thereof "1997".

(b) ADDITIONAL CRITERIA FOR NATIONAL INTEREST WAIVER.—Section 2(b)(6)(D)(i) of that Act is amended by striking out "and" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following:

"(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and".

(c) CONFORMING AMENDMENTS.—

(1) EXPORT-IMPORT BANK ACT.—Section 2(b)(6) of that Act is amended—

(A) in subparagraph (A), by striking out "designated" and all that follows through the end of the subparagraph and inserting in lieu thereof ", except as otherwise provided in subparagraph (B).";

(B) in subparagraph (B)—

(i) by striking out ", and section 32 of the Arms Export Control Act,"; and

(ii) in clause (v), by striking out "and services" and inserting in lieu thereof "or services";

(C) in subparagraph (D)(i)(III), as so redesignated by subsection (b) of this section, by striking out "determination has" and inserting in lieu thereof "determinations have"; and

(D) in subparagraph (D)(ii), by striking out "sentence" and inserting in lieu thereof "clause".

(2) ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by repealing section 32.

(d) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—If an Act is enacted during 1992 entitled "An Act to reauthorize the Export-Import Bank of the United States" that contains amendments identical to amendments made by this section, the amendments contained in this section that are identical to the amendments contained in that Act shall not be effective.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

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

Mr. Speaker, I rise in support of H.R. 6018, the International Narcotics Control Act of 1992.

This bill contains the international narcotics control provisions from H.R. 2508, which passed the House last year. It reflects the Foreign Affairs Committee's continuing interest and oversight of U.S. overseas drug control programs.

I believe there is strong bipartisan support for this bill, and I know of no objection to it, so I will be brief. H.R. 6018 streamlines the provisions in chap-

ter 8 of the Foreign Assistance Act of 1961, repeals obsolete provisions, increases attention to issues such as precursor chemical controls and money laundering, and gives the executive branch increased flexibility in certain areas.

I would like to congratulate Congressmen FEIGHAN and GILMAN, chairman and cochairman of the committee's Task Force on International Narcotics Control, for their hard work on this bill. Neither Member is able to be here today, but they both wanted to move this measure as expeditiously as possible. They have asked that I insert for the record a section-by-section analysis of the bill for the purposes of legislative history. This language is the same as the statement of managers report language in the conference report on title III of H.R. 2508, except in those instances where modifications to the conference report have been made. Chairman FASCELL is also unable to be here today, but he too supports this measure and commends the work of the task force; at his request, I will include a list of the accomplishments and activities of the task force over the past 10 years.

I would also like to thank the chairman of the Committee on Banking, Finance, and Urban Affairs, and his staff, for their cooperation in bringing this bill forward. There are several matters in this bill in which the Banking Committee has jurisdictional interests, and the language in those cases has been agreed upon with that committee.

In short, Mr. Speaker, this is a good bill. It is noncontroversial. It is supported by Members from both sides of the aisle. The administration has no objection to the bill. I urge Members to support H.R. 6018.

I also want to thank Foreign Affairs Committee staffers, Marian Chambers and Randy Scheunemann, who worked diligently on H.R. 6018.

The documents I referred to follow.

SECTION-BY-SECTION ANALYSIS OF H.R. 6018

SHORT TITLE

Section 1 specifies that this Act may be cited as the International Narcotics Control Act of 1992.

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Section 2 provides a table of contents for the bill.

INM AUTHORIZATION

Section 3 authorizes international narcotics control aid for fiscal years 1993 through 1995 at $171.5 million per year, which is straightlined from the fiscal year 1992 request.

REVISIONS TO THE FOREIGN ASSISTANCE ACT

Section 4 revises policy statements and general authorities contained in section 481 of the Foreign Assistance Act of 1961.

Section 4(a) includes an updated reference to the 1988 United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, and adds to the list of objectives of U.S. drug policy the issue of drug money-laundering, to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money-laundering investigations, prosecutions, and related forfeiture actions.

Section 4(b) adds a specific authority for the President to conclude reciprocal maritime agreements.

Section 4(c) incorporates sections 4601 (a) and (c) of the 1988 Anti-Drug Abuse Act, which makes the Secretary of State responsible for coordinating all assistance provided by the U.S. Government to support international efforts to combat illicit narcotics production or trafficking, into section 481 of the Foreign Assistance Act.

Section 4(d) amends section 481(c) of the Foreign Assistance Act to add the phrase "and archipelagic waters" which permits maritime law enforcement operations in the archipelagic waters of an archipelagic state as well as the territorial waters of a country, with the agreement of the country.

Section 4(e) provides an exemption to the prohibition contained in section 482(b) of the Foreign Assistance Act on using funds authorized under this chapter to procure weapons or ammunition. That exemption allows INM to procure (1) weapons and ammunition for the defensive arming of aircraft used for narcotics-related purposes, and (2) firearms and related ammunition to be provided for defensive purposes for State Department employees engaged in activities under this title. Section 4(e) also requires prior notice of any procurement of weapons and ammunition pursuant to regular reprogramming procedures.

This modification of the prohibition in current law is provided pursuant to the request of the executive branch outlined in testimony before the House Committee on Foreign Affairs' Task Force on International Narcotics Control on May 2, 1991. The committee recognizes that monitoring and implementing U.S. narcotics control programs overseas often involves working in a dangerous environment. Counternarcotics aircraft may face hostile ground fire and INM personnel may have to travel to areas frequented by armed traffickers or narco-insurgents. In past years, the Congress has regularly earmarked foreign military financing funds for defensive aircraft arming purposes but has been reluctant to allow INM to become directly involved in the procurement of lethal equipment. However, because the current situation has resulted in long delays and bureaucratic difficulties in procuring arms for antinarcotics aircraft, and because there are no alternatives for Department of State personnel to acquire defensive firearms other than personal purchase, the committee of conference has modified a prohibition which was first enacted in 1978. Any procurement of weapons and ammunition is subject to advance notification in accordance with procedures applicable under section 634A of the Foreign Assistance Act. The committee expects that the executive branch will use this authority only for the unique situations which have been discussed with the Congress in hearing testimony and informal meetings.

Section 4(f)(1) allows the President to waive the requirement to retain title to aircraft provided by the United States to foreign countries, contained in section 484 of the Foreign Assistance Act, if that requirement's application is contrary to the national interest, and the President notifies the Congress in accordance with the procedures contained in section 634A of the Foreign Assistance Act. The House bill also clarifies the authority of the Department of Defense to finance the leasing of aircraft for the purposes of satisfying the requirements of this section (which is the same as section 3(g) of the International Narcotics Control Act of 1990 (Public Law 101-623). It further deletes the provision in current law (section 484) which waives the requirement to retain title to aircraft provided through Export-Import Bank financing. That provision was unnecessary because section 638(a) of the Foreign Assistance Act already states that no provision of that Act applies to assistance extended through the Export-Import Bank.

Section 4(f)(2) combines and modifies sections 485 and 489 of the Foreign Assistance Act and deletes the requirements of current law in sections 489(c) and 489(d) for the President to issue regulations, with advance congressional review, to ensure proper use of aircraft provided under this chapter, and makes technical corrections to section 485.

The Congress has long mandated the retention of title for aircraft provided under chapter 8 of the Foreign Assistance Act for reasons based on a series of historical experiences of misuse, abuse, and a lack of recourse in such situations. However, the committee recognizes that there may be circumstances in which the level of confidence of the executive branch in the recipient countries intentions, U.S. monitoring capabilities, or other mitigating factors might justify transfer of aircraft titles. In such cases, the President must provide the Congress with advance notification. To the degree that narcotics control aircraft are to be provided through military assistance channels and the U.S. retains title, the committee has made permanent the authority contained in section 3(g) of Public Law 101-623 of fiscal year 1991 for the Department of Defense to provide such aircraft on a lease or loan basis.

The committee notes that on numerous occasions the executive branch has testified that the Bureau of International Narcotics Matters' "air wing" is the result of the 1986 law requiring the United States to retain title to narcotics control aircraft. Given the flexibility now provided in this section to waive that requirement, the committee requests that the Bureau of International Narcotics Matters submit a report to the appropriate committees of Congress no later than three months after the date of enactment of this legislation detailing the impact of this new authority on the Bureau's "air wing". The report should include plans for coordinating funding, support, and operations of aircraft for which transfer is titled (whether by the Department of State or the Department of Defense) with the management of aircraft currently in its inventory. This report should be coordinated with the Defense Security Assistance Agency.

Section 4(g) amends section 488 of the Foreign Assistance Act to allow narcotics control assistance funds to be used to finance leases of real property of a duration of not more than three years. It further requires the Secretary of State to report quarterly on leases entered into under this authority. Finally, section 4(g) requires 15 days prior notification on the use of funds for construction of facilities which would require the obligation of more than $750,000.

The committee notes that a recent decision by the Legal Advisor at the Department of State has necessitated this change in existing law. The prohibition on the acquisition of real property was enacted in 1988 to address a specific situation in which the Department of State purchased land and an existing building to serve as a facility for local

police; the committee believed that this purchase should not have been made and that the host government should have acquired the land and building in question on its own.

However, the recent decision that no leases could be paid for with narcotics control funds has resulted in a significant disruption in certain narcotics control programs, particularly in Bolivia. Because of the nature of various narcotics control efforts, such as Operation Ghost Zone in Bolivia, short-term leases of facilities are sometimes necessary and can be the most cost effective and efficient way of procuring storage and housing for host country personnel and equipment. Therefore, the committee has allowed an exemption from the prohibition for leases which do not exceed three years. The committee also notes that the quarterly report on leases entered into under this exemption will allow for a continuing review of this authority to ensure that such leases do not become a surrogate for acquiring facilities that should be more correctly provided by the host government.

The committee has also included a new notification requirement on the construction of facilities. Since the beginning of the Andean Initiative in 1989, an increasing amount of resources have been devoted to the construction of facilities, including housing, riverine facilities, and other bases of operations. The committee is concerned that this explosion in construction, both in the Andean countries and other countries, such as Mexico, has not been adequately planned or coordinated. The committee believes that the prior notification requirement in this section will enable the committee to better monitor the expenditure of funds for construction. The committee also notes that the $750,000 threshold was included so that the executive branch would not be overburdened with reporting requirements.

REPORTING AND CERTIFICATION REQUIREMENTS

Section 5 creates new sections 489, 489A, 490, and 490A for the Foreign Assistance Act. New sections 489 and 490 substantially rewrite sections 481 (e) and (h) of the Foreign Assistance Act regarding annual reporting and certification requirements.

New section 489(a)(1) requires the President to submit a comprehensive report to the Congress not later than April 1 of each year on all countries which have received INM assistance in either of the two proceeding fiscal years, and details what must be included in that report.

New section 489(a)(2)(A) requires a description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including the status of negotiations between the U.S. and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Control Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

New section 489(a)(2)(B) requires information on multilateral and bilateral strategies with respect to money laundering pursued by the Departments of State, Justice, and the Treasury, and other relevant U.S. Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all U.S. Government agencies are pursuing a common strategy with respect to major money laundering countries.

New section 489(a)(3) requires the report to identify which countries are (A) major illicit drug producing and drug transit countries (as determined under new section 490(h)), (B) significant direct or indirect sources of illicit drugs affecting the United States, (C) major sources of precursor chemicals used in the production of illicit narcotics, or (D) major money laundering countries.

New section 489(a)(4) requires in addition, for each of the four categories of countries identified in (a)(3), the report to include: (1) a description of the plans, programs and timetables adopted by each such country, including efforts to meet the objectives of the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans; (2) whether as a matter of governmental policy, each such country encourages or facilitates the production or distribution of illegal drugs or the laundering of proceeds from illegal drug transactions; (3) and whether any senior official of the government of each such country engages in, encourages, or facilitates the production or distribution of illegal drugs, or the laundering of proceeds from illegal drug transactions.

New section 489(a)(5) requires in addition, for the major producer and transit countries and the significant source and transit countries identified in (a)(3)(A) and (B), a detailed status report, with such information as can be reliably obtained, on the illicit narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

New section 489(a)(6) requires, in addition, for those countries identified as major sources of precursor chemicals in paragraph (3)(C), information on which countries: are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals; have established a procedure by which such records may be made available to U.S. law enforcement authorities; and have enacted national chemical control legislation which impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

New section 489(a)(7)(A) requires, for those countries identified as major money laundering countries pursuant to paragraph (3)(D), information on which countries have financial institutions engaging in currency transactions involving drug trafficking proceeds that are linked to the United States; of those countries, which have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and which of those countries which have not reached such an agreement are negotiating in good faith with the United States to establish such a record-exchange mechanism, or have adopted laws or regulations that ensure the availability to appropriate U.S. Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

Section 489(a)(7)(B) also requires in addition, for those countries identified as major money laundering countries, information on which countries have ratified the 1988 U.N. Convention and are taking steps to implement that Convention and other applicable agreements and conventions, and which countries have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

Section 489(a)(7)(C) requires findings, for major money laundering countries, on the country's adoption of laws and regulations considered essential to prevent narcotics-related money laundering. Such findings are to include whether a country has criminalized narcotics money laundering, required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, required financial institutions to maintain records for an adequate time to reconstruct significant transactions, required or allowed financial institutions to report suspicious transactions, established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets, enacted laws for the sharing of seized narcotics assets with other governments, cooperated when requested with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics, and addressed the problem on international transportation of illegal-source currency and monetary instruments. The report shall also detail instances of refusals to cooperate on the part of foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

New section 489(b)(1) requires the annual report to include information on U.S. assistance provided during the preceding, current and next fiscal years to support international efforts to combat illicit narcotics production and trafficking. Section 489(b)(2) requires the report to include (A) the amount and nature of assistance provided or to be provided, (B) for countries identified as major producers and major transit countries under subsection (a)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail the assistance provided or to be provided to such country by that agency, and the assistance provided or to be provided to that agency by such country, with respect to narcotic control efforts during the preceding, current and next fiscal year, and (C) a list of all transfers which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the U.S. Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

New section 489(b)(3) provides that the reports required by the subsection may be provided on a classified basis to the extent necessary.

New section 489(c) provides definitions for terms used in this section. The term "precursor chemical" has the same meaning as the term "listed chemical" has under paragraph 33 of section 102 of the Controlled Substances Act (21 U.S.C. 902), and the term "major money laundering country" means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.

New section 489(d) states that this section only applies during fiscal years 1992 and 1993, and that section 489A does not apply during those fiscal years.

New section 490 substantially revises section 481(h) of current law, relating to certification procedures for major drug countries, for fiscal years 1993 through 1995.

New section 490(a)(1) requires that 50% of U.S. assistance allocated at the beginning of each fiscal year for each major illicit drug-producing or drug-transit country shall be withheld from obligation and expenditure, except as provided in paragraph (B) and subsection (b). New section 490(a)(1) also states that subparagraph (A) shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act.

New section 490(a)(2) further requires the Secretary of the Treasury to direct the U.S. Executive Directors to multilateral banks to vote, on and after April 1 of each year, against any loan to or for any major illicit drug-producing or drug-transit country except as provided in subsection (b).

New section 490(b)(1) establishes what must be certified under the certification process. It states that, subject to subsection (d), the 50% of aid withheld pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the annual INCSR report, that.

(A) during the previous year the country has cooperated with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988; or

(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld be provided and that the U.S. not vote against multilateral development bank assistance for that country.

New section 490(b)(2) provides that, in making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has:

(A) met the goals and objectives of the 1988 U.N. Convention, including action on such issues as illicit cultivation, production, distribution, sale, transport, financing, money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemicals, and demand reduction;

(B) accomplished the goals in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption (especially by senior government officials) that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

New section 490(b)(3) requires the President to submit a detailed justification for national interest certifications.

New section 490(c) states that the President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country which is also a producer of licit opium, only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, and that such country maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

New section 490(d) prescribes procedures for congressional review of the President's certifications. If, within 45 calendar days after the certification is received, the Congress enacts a joint resolution disapproving the President's determination, the 50% withholding requirement and the requirement to vote against further multilateral development bank loans shall continue in effect.

New section 490(e) clarifies what assistance is to be denied in a case where either the President or the Congress determines that a country shall not be certified as fully cooperating. Funds may not be obligated for U.S. assistance to that country, and funds previously obligated for U.S. assistance may not be expended. Further, the requirement to vote against further multilateral development bank loans shall apply regardless of the April 1 date contained in subsection (a)(2).

New section 490(f) specifies procedures for recertifying countries which have been denied certification. Denial of assistance and voting against multilateral development bank loans shall continue until the President makes a certification under subsection (b)(1) (A) or (B) for a country and the Congress does not enact a joint resolution of disapproval pursuant to section 490(d), or until the President submits at any other time a national interest certification pursuant to subsection (b)(1)(B) for a country. In the second case, this only applies if either the President did not submit a certification with respect to that country under subsection (b)(1) at the time of the April 1 report, or if the Congress enacted a joint resolution under section 490(d) disapproving the President's certification determination.

New section 490(g) specifies congressional review procedures for recertification. Any joint resolution under this subsection shall be considered in the Senate in accordance with the expedited procedures specified in section 601(b) of the International Security Assistance and Arms Export Control Act of 1976; in the House of Representatives, a motion to proceed to the consideration of any such joint resolution shall be treated as highly privileged in the House.

New section 490(h) requires the President to submit to the Congress by January 1 of each year a list of those countries which he has determined are major drug producing or transit countries.

New section 490(i) specifies that this section applies only during fiscal years 1993, 1994, and 1995.

Finally, section 5(a) makes modifications to the certification procedures and reporting requirements, and the determination of major producing and transit countries in current law which become effective after September 30, 1995. These modifications are included in new sections 489A and 490A of the Foreign Assistance Act and delete obsolete requirements for consultations and congressional hearings, and obsolete references to country plans submitted pursuant to the 1961 Single Convention on Narcotic Drugs.

Section 5(b) amends section 481(i)(4) of the Foreign Assistance Act to clarify the definition of "U.S. assistance" for purposes of this chapter.

This revision of annual reporting requirements was designed in part to address concerns raised by the executive branch over the number of reporting requirements concerning narcotics control issues that have been enacted over the past decade. In response to this concern the committee has deleted certain duplicative requirements, deleted the requirement for an annual mid-year report (currently section 481(b) of the Foreign Assistance Act), consolidated other reporting requirements within the annual report required by this section, and deleted obsolete language in current law.

However, the committee has also considerably expanded the reporting requirements for the annual International Narcotics Control Strategy Report (INCSR) in three significant areas: first, by requiring the inclusion of information on all countries that have received INM assistance in either of the two preceding fiscal years; second, by broadening detailed reporting on all major money laundering and major precursor chemical source countries as well as on all significant producer and transit countries; and third, by adding references to the 1988 U.N. Convention. The committee believes that the unparalleled transnational threat posed to the United States by the international traffic in illicit narcotics, as well as the increasing multilateral consensus manifest in the entry into force of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, merits increased emphasis on rating counternarcotics performance with an accepted international standard and more comprehensive reporting on individual nations' counternarcotics efforts. As Drug Enforcement Administration Administrator, Robert C. Bonner, said in congressional testimony in March of 1991, "[The entry into force of the 1988 U.N. Convention] is a milestone, I believe, in the international effort to fight drug traffickers because this far-reachng treaty will go a long way toward providing the tools and international framework for combating drug trafficking, and as more nations ratify this convention, even more international cooperation will be possible."

The committee also believes that by expanding the report the issue of narcotics control will become a more firmly entrenched component of U.S. foreign policy. By expanding the need for increased attention to narcotics by foreign service officers in countries not currently covered by INM personnel, and by stressing the importance of the narcotics issue to the foreign service, the process of "weaving the issue into the fabric of our foreign policy" which was noted by Assistant Secretary of State for International Narcotics Matters Melvyn Levitsky in recent congressional testimony, will continue to be enhanced. The committee notes that it does not intend the reference to "compliance with the goals and objectives" to refer solely to signatories of the 1988 U.N. Convention; on the contrary, the committee desires to build upon the international standards established by the Convention and explicitly avoid creating any disincentives for countries to sign and ratify the Convention.

In addition, the committee has moved to a more comprehensive focus by requiring more detailed reporting on the issues of money laundering and precursor chemical production, as well as on the more traditional is-

sues of production and transit, in recognition of the fact that effectively addressing these two important aspects of the international narcotics trade are integral to any international efforts.

While there is virtually no country in the world unaffected by international narcotics trafficking, the committee recognizes that there are significant variations in the scope of the problem among countries. For countries which are not major drug producers, drug transit countries, money laundering centers, or listed chemical sources, the subjects for reporting are identified as the extent to which a country has met the goals and objectives of the 1988 U.N. Convention, accomplished the goals in an applicable bilateral or multilateral narcotics agreement, and addressed narcotics-related corruption. The committee does not expect reporting on countries not included in the four categories listed above to be as detailed as for countries such as Peru or Mexico. This section would require reasonable efforts to examine the status of the 1988 U.N. Convention and any implementing legislation, and a brief description of efforts to address narcotics-related developments, including corruption, in a given country. Much of this information concerning the status of legal measures, ratification of the Convention, seizures, arrests, etc. should be readily available, as evidenced by the U.N. International Narcotics Control Board's annual report covering all member states of the United Nations. The committee also notes that nothing in this section would preclude INM from reporting on countries which may not yet receive INM assistance but which they believe may be significant, such as the independent states of the former Soviet Union. In addition, as long as each INM assistance recipient is included, reporting could be done on a regional basis if appropriate for countries which are not major drug producers, drug transit countries, money laundering centers, or precursor chemical sources. The committee expects that the regional format would only be used for countries in areas not currently covered in the INCSR, such as island-states in the South Pacific or smaller states in West Africa, but not for regions such as Western Europe and the Southern Cone.

By broadening the INCSR beyond its traditional focus on narcotics production and transit, this section requires a more comprehensive view of all major elements of the international narcotics trade and addresses the issues raised by the "Kerry Amendment" on money laundering (Section 4702 of the 1988 Anti-Drug Abuse Act, Public Law 100-690) and the "McConnell Amendment" on precursor chemicals (Section 599H of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, Public Law 101-513).

With respect to the changes in certification, as noted previously, debates about the efficacy of the certification process have taken place since its enactment. However, the committee firmly believes that certification serves a useful purpose in focusing attention on narcotics issues, both within the Congress and the executive branch. Although the executive branch was vehemently opposed to certification in the beginning, over the years this position has changed. In testimony before the Congress in recent years, executive branch officials have repeatedly stated that the certification process, while flawed in their judgment, has succeeded in highlighting to foreign governments the seriousness which the U.S. Government attaches to the issue of narcotics control.

Therefore, in an effort to accommodate concerns of the executive branch about the certification process while maintaining the leverage provided by the process, the committee has provided the President with a waiver of the 50 percent withholding requirement, reduced the congressional review period, given the President increased flexibility in determining the list of countries which are subject to certification, and provided a more streamlined method for recertifying countries in special circumstances.

In addition, in concert with the more multilateral approach the committee has adopted with respect to the annual INCSR report, the standard for certifying countries has been changed from "fully cooperating" with the United States to one based on meeting the goals and objective of the 1988 U.N. Convention.

With respect to the changes for fiscal years 1993, 1994, and 1995 in the recertification process, the committee notes the following: under current law, for a country decertified either by the President or by congressional resolution of disapproval, a Presidential recertification for the country either on grounds of full cooperation or on grounds of national interest requires affirmative congressional action. Under the new procedures, the President could recertify a country on national interest grounds any time after April 1 without affirmative congressional action, if (1) he certifies that any such country has undergone a fundamental change in government, or (2) there has been a fundamental change in the conditions that were the reason why the country was decertified. However, the procedures for recertifying on full cooperation grounds would still require affirmative congressional action. This change was provided at the request of the executive branch, which asserted that the recertification procedures in current law resulted in substantial delays in resuming assistance to Panama after the December 1989 U.S. action in that country. The committee notes that, in that case, the President transmitted to the Congress a recertification based on "full cooperation" for Panama on January 29, 1990 (Executive Communication 2373, Presidential Certification Number 90-9). Less than two weeks later, on February 7, 1990, both Houses of Congress had passed legislation to recertify Panama on the basis of national interest (see House Report 101-401, Part I, sections 102 and 103). The committee therefore does not find the assertion that recertification procedures in current law delayed the resumption of assistance to Panama persuasive. Nonetheless, the committee has provided the requested change in order to eliminate such assertions in the future.

Finally, the committee notes that the definition of "U.S. assistance" to be denied if a country is decertified has been clarified. Current law (section 481(i)(4)) defines the aid to be denied as all assistance which is not exempted in that section. This has led to confusion over how broadly non-exempted "assistance" should be construed. In the case of the Panama decertification, for example, questions were raised as to whether, in the period before Panama was recertified, the U.S. Federal Aviation Administration could provide technical assistance at airports in Panama. Further, that section designated as assistance, both for purposes of aid denial and for exemption, programs which are not normally construed to constitute foreign assistance, or which are not otherwise covered by prohibitions in the Foreign Assistance Act. The definition in this bill has therefore been changed to limit the reach of this prohibition to those programs identified in this section or excluded by this section. The only substantive change is to exempt narcotics-related economic assistance from the aid prohibition, so long as Congress is notified 15 days in advance pursuant to reprogramming procedures in section 634A of the Foreign Assistance Act.

TECHNICAL AMENDMENTS

Section 6 contains statutory clarifications resulting from the changes in reporting requirements and certification procedures for fiscal years 1992 and 1993; makes additional technical corrections to chapter 8 of the Foreign Assistance Act, and the Ex-Im Bank Act necessitated by other amendments made by this legislation; and repeals obsolete provisions of current law. Section 6 also effectively repeals certain prior year ceilings on assistance in the International Narcotics Control Act of 1989 at the request of the executive branch.

660 WAIVER

Secton 7(a) states that for fiscal years 1993, 1994, and 1995, section 660 of the Foreign Assistance Act shall not apply with respect to transfers of excess defense articles, foreign military financing assistance that is provided for narcotics-related purposes, or for international military education and training that is provided for narcotics-related purposes.

Section 7(b) requires that at least 15 days before any excess defense articles are transferred or any funds are obligated for FMF or IMET under this section, the President shall notify Congress in accordance with the procedures applicable to reprogramming notifications under section 6304.

Section 7(c) states that assistance provided pursuant to this section shall be coordinated with international narcotics control assistance.

This section responds to an executive branch request for a waiver of the prohibition contained in section 660 of current law on providing assistance and training to foreign police forces. The executive branch requested a permanent waiver of section 660 of current law, for all economic and military foreign assistance accounts worldwide, for narcotics-related purposes. The committee has provided such a waiver only for military assistance accounts (narcotics-related excess defense articles, FMF, and IMET), with prior notice to Congress, for a 3-year "trial period" through fiscal year 1995.

The committee notes that narcotics control assistance provided under this title is permanently exempted from the prohibition contained in section 660 of the Foreign Assistance Act. Section 660 itself also exempts overseas activities conducted through the Drug Enforcement Administration. Section 506(a)(2) of the Foreign Assistance Act also contains a permanent waiver from this prohibition. The Congress has on numerous occasions provided narcotic-related waivers of this provision for specific purposes, primarily in Latin America. The committee has therefore agreed to provide a global waiver of this requirement for the relevant military assistance accounts for a three-year period. In the case of the Andean Initiative this waiver is provided in explicit recognition of the executive branch's recent emphasis on assistance to the police vis-a-vis assistance to the military. The committee stresses that this waiver is provided for narcotics-related purposes only, and that it will closely monitor any use of this authority for purposes which extend beyond those related to narcotics control objectives.

ECONOMIC ASSISTANCE WAIVER

Section 8 provides authority for the President to provide narcotics-related economic assistance notwithstanding any other provision of law except for those relating to ineligibility due to a lack of cooperation on narcotics control issues for fiscal years 1992–1995.

Under current law, assistance provided through INM is exempt from virtually any cut-off of assistance. This new section authorizes, in addition, the provision of other narcotics-related economic assistance to countries otherwise ineligible for U.S. assistance, with prior notification pursuant to the procedures contained in section 634A of the Foreign Assistance Act. The committee recognizes that there may be unique circumstances in which a country is ineligible for assistance due to non-narcotics related reasons where the provision of narcotics-related economic assistance could support U.S. counternarcotics goals. However, the committee also notes that the authority provided in this new section could be misinterpreted as a "loophole" to provide broad economic assistance to countries which are otherwise prohibited from receiving assistance, such as Pakistan. The committee therefore limited this authority to fiscal years 1992–1995. The committee will insist that "narcotics-related assistance" provided pursuant to this authority in fact has a demonstrable and direct relevance to narcotics control objectives.

EXCESS DEFENSE ARTICLES

Section 9 makes revisions to the authority to transfer excess defense articles for counternarcotics purposes contained in section 517 of the Foreign Assistance Act by adding a new subsection (j). Subsection (j) states that the transfer authority provided in sections 518 and 519 of the Foreign Assistance Act may not be exercised with respect to any major illicit drug producing country or major drug transit country in Latin America or the Caribbean.

The committee has included this restriction to address the proliferation of authorities through which excess defense articles are currently provided. Section 517 authorizes such articles to be provided for counternarcotics purposes to major drug countries in Latin America which have democratic governments and which respect human rights. It further limits the amount of articles which can be provided to any one country to $10 million per fiscal year. Section 519 authorizes such articles to be provided, world-wide, to countries for the purpose of military modernization, and contains no similar restrictions to section 517. The committee notes that a number of excess defense articles have been provided to major drug countries in Latin America using the section 519 authority rather than the appropriate section 517 authority. Section 9 therefore limits the provision of excess defense articles to major drug countries in Latin America to those provided through section 517.

Section 9 further clarifies that Department of Defense excess defense articles include Coast Guard excess property, and excludes from the definition of excess defense articles construction equipment, including tractors, scrappers, loaders, graders, bulldozers, dump trucks, generators, and compressors.

IMET

Section 10 amends section 541 of the Foreign Assistance to include new narcotics purposes for which international military education and training assistance may be used.

DEFINITIONS

Section 11 amends section 481(e) of the Foreign Assistance Act (as amended by this act) to provide a definition of appropriate congressional committees.

EXPORT-IMPORT BANK

Section 12 extends through 1997 the exemption, contained in section 2(b)(6) of the Export-Import Bank Act of 1945, from the general prohibition of Export-Import Bank financing for sales of defense articles and services to developing countries if those sales are primarily for anti-narcotics purposes. Section 12 also adds a new requirement for consultation by the Bank with the Assistant Secretary for Human Rights and Humanitarian Affairs before financing sales under this section. Section 12 also makes technical and clarifying changes to section 2(b)(6) of the Export-Import Bank Act of 1945.

HOUSE FOREIGN AFFAIRS COMMITTEE OVERSIGHT OF NARCOTICS ISSUES HFAC/TASK FORCE HEARINGS

1992

March 3: Overview of the 1992 International Narcotics Control Strategy Report.

March 4: Review of South America and the Andean Initiative.

March 11: Review of Central America and the Caribbean.

March 12: Review of Southeast Asia, Southwest Asia, Europe and Africa.

1993

March 5: Overview of the 1991 International Narcotics Control Strategy Report and the Fiscal Year 1992 INM Budget Request.

March 7: Review of South America and the Andean Initiative.

March 12: Review of Central America and the Caribbean.

March 13: Review of Southeast Asia, Southwest Asia, Europe and Africa.

May 2: Review of the President's Narcotics Control Legislative Request: Should Certification be Repealed?

July 10: The Future of Colombian Narcotics Control Efforts and the Andean Initiative.

September 12: Review of the Presidential Determination on Narcotics Control and Human Rights in Peru.

1990

February 20/28: Review of the Department of State Inspector General's Reports on Bureau of International Narcotics Matters' Programs.

February 27: Review of the International Aspects of the President's 1990 Drub Control Strategy.

March 1: Review of the 1990 International Narcotics Control Strategy Report.

March 6: Review of South America.

March 8: Review of Central America and the Caribbean.

March 13: Review of Southeast Asia.

March 15: Review of Southwest Asia, Europe, and Africa.

April 3: Overview of the Agency for International Development's Economic Assistance Strategy for the Andes and other programs.

May 23: Operation Snowcap: Past, Present, and Future.

June 21: International Drug Money Laundering: Issues and Option for Congress (CRS Seminar).

October 10: Compliance by the Executive Branch with Legislative Requirements and the Future of the Andean Initiative.

1989

February 28: Review of Fiscal Year 1990 Bureau of International Narcotics Matters' budget.

March 7: Review of South America.

March 9: Review of South America.

March 14: Review of Mexico, Central America, and the Caribbean.

March 15: Review of Southeast Asia and the Pacific.

March 22: Review of Southwest Asia, the Middle East, Europe, and Africa.

July 25/27: Cuban Involvement in International Narcotics Trafficking.

September 12: Review of the International Aspects of the President's Drug Control Strategy.

October 31: Connection between Arms and Narcotics Trafficking.

November 7/8: Review and Markup of the President's Andean Initiative.

1988

January 27: Recent developments in Colombia.

March 3: Worldwide narcotics review/review of the 1988 International Narcotics Control Strategy Report.

March 9: Review of certifications for the Caribbean.

March 10: Review of certifications for Central America.

March 15: Review of certifications in Asia, the Middle East, and Africa.

March 17: Review of certifications for South America.

March 22: Continued review of certifications for South America.

September 28: Review of the Section 2013 Report and the State Department Mid-Year Update Report.

1987

March 5: Worldwide review of narcotics control programs.

May 7: The role of intelligence in narcotics enforcement.

March 18: Review of Latin American narcotics control developments.

May 12: Narcotics efforts in the Bahamas and the Caribbean.

June 30/July 15: U.S. narcotics efforts in Southeast Asia.

July 15/July 21: Bolivia (executive sessions).

July 29: GAO review of U.S. narcotics control programs.

October 7: Review of State Department's midyear update.

October 29: Review of extradition treaties and Mutual Legal Assistance Treaties.

November 4: Paraguay (classified).

1986

February 6: Annual Review of International Narcotics Control Programs, and the Impact of Gramm-Rudman on Overseas Narcotics Control Efforts.

March 11: Nicaraguan Government Involvement in Narcotics Trafficking.

May 13/32: Review of U.S. Narcotics Control Efforts in the Middle East and South Asia.

June 19: Closed briefing on U.S.-Panamanian Anti-Narcotics Efforts.

June 19: Issues in U.S.-Panamanian Anti-Narcotics Efforts.

July 17: U.S.-Mexico Cooperation in narcotics control efforts: The Camarena Investigation.

July 17: U.S.-Mexico Cooperation in Narcotics Control: Eradication and Interdiction.

August 5: Role of the U.S. Military in Narcotics Control Overseas.

August 6: Markup of draft committee print of international narcotics control legislation (full committee).

1985

March 19: U.S. International Narcotics Control Programs (full committee).

May 7: Briefing on the Mexican narcotics situation.

June 4: Briefing on narcotics production estimates and verification methods.

June 27: Narcotics production and transshipments in Belize and Central America.

November 12: Recent developments in Latin American narcotics control.

1984

February 21: Cuban Government involvement in narcotics trafficking: the U.S. Response.

February 23: Review of the world-wide illicit narcotics situation.

April 10: Briefing on the impact of U.S. assistance on narcotics control efforts.

May 24: Recent developments in Colombian narcotics control.

June7/July 24: The Bulgarian/Turkish narcotics connection.

1983

April 12: Review of the International Narcotics Control Program.

June 30: Overview of International Narcotics Problems.

August 4: Overview of international narcotics control problems (closed).

September 22: Narcotics trafficking in the Bahamas.

September 28: Federal-State cooperation in international narcotics interdiction: The Bahamas.

October 19: U.S. Narcotics Interdiction Programs in the Bahamas.

November 2: U.S. Narcotics Interdiction Programs in the Bahamas.

LEGISLATION ENACTED

International Narcotics Control Act of 1990 (P.L. 101-623).

International Narcotics Control Act of 1989 (P.L. 101-231).

International Narcotics Control Act of 1988 (P.L. 100-690).

International Narcotics Control Act of 1986 (P.L. 99-570).

International Narcotics Control Act of 1985 (P.L. 99-83).

Numerous provisions in Department of State, Department of Defense Authorization Acts; numerous free-standing resolutions relating to specific countries.

OTHER ACTIVITIES

Numerous Task Force meetings with foreign leaders, informal meetings.

GAO REVIEWS REQUESTED BY THE COMMITTEE

"U.S.-Mexico Opium Poppy and Marijuana Aerial Eradication Program" January, 1988.

"River Patrol Craft for the Government of Bolivia" February 1988.

"U.S. International Narcotics Control Activities" March 1988.

(Two more GAO report are forthcoming in 1992/93).

STAFF STUDY MISSION REPORTS

"Narcotics Control Efforts in Southeast Asia: Business as Usual", February 1991.

"European Integration, The United States, and Narcotics Control: Rhetoric and Reality", March 1990.

"U.S. Licit Opium Imports: Foreign Policy Issues", May 1989.

"U.S. Narcotics Control Programs in Peru, Bolivia, Colombia, and Mexico: An Update", February 1989.

"U.S. Narcotics Control Efforts in the Caribbean" December 1987.

"U.S. Narcotics Control Efforts Overseas—A Continuing Assessment" 1986.

"U.S. Narcotics Control Efforts Overseas—An Assessment" 1985.

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

Mr. Speaker, I also rise as one of the original cosponsors of H.R. 6018, the International Narcotics Control Act of 1992.

Mr. Speaker, H.R. 6018, the International Narcotics Control Act of 1992, is an important bill which will strengthen our overseas counterdrug programs. The Committee on Foreign Affairs has worked on this legislation for almost 2 years.

I would like to commend Chairman FASCELL for his diligent efforts to improve our antidrug capabilities. Congressman ED FEIGHAN, chairman of our Task Force on International Narcotics Control, and Congressman BEN GILMAN, vice-chair of the task force, have worked for many months to bring this legislation to the floor. All of them have spent many hours over the last decade in trying to improve U.S. counternarcotics efforts.

H.R. 6018 is the result of compromise by all parties. I understand the administration does not object to passage of the bill. H.R. 6018 will solve many problems which have arisen in our overseas counternarcotics efforts. Significant flexibility is granted to the administration in a number of areas. H.R. 6018 expands the annual narcotics report—especially in the increasingly important areas of money laundering and precursor chemical traffic—and highlights the U.N. convention in the annual certification process.

I believe this legislation will help provide the tools for all Americans working to lessen the flow of illegal drugs into the United States I urge my colleagues to support H.R. 6018.

Mr. FEIGHAN. Mr. Speaker, H.R. 6018 is the product of an intensive review of current law and the executive branch request regarding a number of narcotics control-related matters. It attempts to streamline current law, give the executive branch the flexibility it requested where possible, but retain important principles about which the Congress feels strongly. This bill is essentially the same as title III of H.R. 2508, which passed the House in 1991 as part of a broader bill. Several technical corrections have been made to reflect changes due to the passage of time, and to accommodate certain requests of the executive branch.

Briefly, this bill streamlines current language in the law regarding the annual drug certification and reporting process, gives the President the flexibility to determine which countries are included on the certification list for drug cooperation, and changes the date for submission of the list, waives the current 50 percent aid withholding requirement if the President determines it is in the national interest and gives prior notice to the Congress, reduces the congressional review period for the certified countries from 45 legislative days to 45 calendar days, clarifies the definition of "U.S. assistance" for international narcotics control purposes, and provides a special waiver to address unique situations in which conditions in decertified countries undergo a sudden and fundamental change. These changes would be applicable for a 3-year period; at the end of that time, current law would again become applicable unless subsequent legislation was enacted.

I would also note that the thrust of the changes in the certification and reporting process reflects the fact that narcotics control has become a truly multilateral issue with the entry into force of the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and that countries' narcotics control performance is linked to the multilateral standards in the landmark 1988 U.N. convention.

Mr. Speaker, this bill will not solve the drug problem in this country, but it will make a contribution to improving our international efforts to combating the illicit drug trade. It represents 10 years of experience of the committee's Task Force on International Narcotics Control, which I have had the honor to chair or cochair during that time. I would like to thank our ranking Republican, Congressman GILMAN, and his staff, Randy Scheunemann, without whose contributions and assistance this bill would not have been possible. I would also like to thank the chairman of the Banking Committee and his staff for their assistance and cooperation on those matters in this bill in which the Banking Committee has a jurisdictional interest.

Mr. Speaker, the administration supports this bill, and it has bipartisan support. I urge all Members to support its passage.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 6018, the International Narcotics Control Act of 1992.

This measure, which is essentially the same as the narcotics title of the foreign aid conference report on H.R. 2508, represents a great deal of work and expertise by the committee's Task Force on International Narcotics Control. Congressmen FEIGHAN and GILMAN, who have had leadership positions on the task force for the past 10 years, have devoted an enormous amount of time over these years in developing legislation to address our overseas narcotics control efforts, and in monitoring the implementation of these programs.

I have long maintained that demand reduction is the only long-term solution to the drug problem facing our country. Like many Members, I have experienced frustrations over the lack of more substantial progress in our international efforts. I am particularly distressed that we were forced to drop from this bill any language relating specifically to our program in the Andes, because the administration objected to again imposing the same human rights and drug control performance conditionality language on these countries which the President has already signed into law once.

Nonetheless, this bill is a good compromise measure, and worthy of support. It broadens our focus from drug production and eradication to include other critical elements in the drug chain such as precursor chemicals and money laundering, subjects on which the executive branch has been reluctant to report. It places more emphasis on multilateral cooperation and compliance with the 1988 U.N. convention. It rewrites the law governing our narcotics control programs to delete legislative barnacles, clarify ambiguous or conflicting provisions, and provide the executive branch with the flexibility it seeks. In short, this is a good government bill.

I again commend Congressmen FEIGHAN and GILMAN for their hard work, and ask all Members to support his measure.

Mr. GILMAN. Mr. Speaker, as cochairman of the International Narcotics Task Force, I strongly support H.R. 6018, the International Narcotics Control Act of 1992. Congressman FEIGHAN, the chairman of our task force deserves special credit for making this legislation a reality.

Chairman FEIGHAN, who has unfortunately decided to retire after the 102d Congress, has spent many years fighting international drug traffic. He was the first chairman of our task force from 1983 to 1985. He resumed his position as chairman last year. Throughout his 10 years in Congress, ED FEIGHAN has typified a legislator who cares about policy, about the personnel charged with carrying out policy, and who is willing to listen to and consider all points of view. I know I speak for many in saying that we will miss his leadership on counternarcotics and many other issues.

H.R. 6018 is the product of a joint effort to modify the Foreign Assistance Act to reflect changes in the international struggle against narcotics traffickers. The annual certification process is linked to the 1988 U.N. convention-a globally accepted set of criteria which holds great potential to make the fight against international narcotics traffic a truly multinational battle.

H.R. 6018 also requires increased reporting on money laundering and precursor chemical countries in recognition of their crucial role in the illicit drug traffic. This legislation requires the annual international narcotics control strategy report to discuss the status of the 1988 U.N. convention and narcotics-related corruption in all countries which receive U.S. counternaroctics assistance. This modest requirement will help those of us charged with oversight to better evaluate the effectiveness of our antidrug aid.

H.R. 6018 farther provides flexibilities requested by the administration on issues ranging from aircraft titling to weapons and property acquisition. We have included certain technical provisions to address new or unanticipated situations. Throughout our deliberations, we have been guided by one principle: whatever our differences with a particular counterdrug policy, there are many dedicated Americans from many agencies working overseas in difficult—and often dangerous—conditions who deserve the best support we can provide. I believe that we have produced legislation which will improve our international drug control efforts and which will receive broad, bipartisan support in the Congress.

Accordingly, I urge my colleagues to support H.R. 6018.

Mrs. LLOYD. Mr. Speaker, I rise today in the strongest of support for H.R. 6018, the International Narcotics Control Act. While significant progress has been made in the past several years in stemming the tide of drugs coming into this country, further, more concentrated efforts are needed.

The scourge of drug use and abuse in this country has reached all parts of our society. Clearly, the problem is worse in the urban, and inner-city areas, but the rural and well off are also affected. Drug abuse not only affects the life of the abuser, but also the lives of the families and friends who are often unaware of the problem or unclear how to help.

H.R. 6018, tightens up the drug provisions contained in the 1961 Foreign Assistance Act. Specifically, it puts restrictions on the amount of U.S. foreign aid, military or economic, going to a drug producing or drug trafficking nation. The intent is to encourage drug producing countries to get out of the business if they have been or wish to continue to be recipients of U.S. assistance. Another provision of this bill, would permit the U.S. international military education and training program to cooperate with foreign counternarcotics police forces. Through shared knowledge of the problem, a more comprehensive approach to drug interdiction can be developed.

Mr. Speaker, these provisions represent another example of the wide variety of approaches needed to attack the international drug trade. Throughout my tenure, I have supported other initiatives to suppress the proliferation of drugs including the highly regarded Anti-Drug Abuse Act of 1988 (P.L. 100–690) which created the office of drug czar and increased penalties for drug trafficking, including the death penalty for the drug related killing of a law enforcement officer.

My colleagues, we must face the reality of drug abuse and proliferation head on. People with drug problems are out there and are affecting our children, our friends, and our constituents. Let us reaffirm our commitment to addressing this national tragedy and vote to support H.R. 6018.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the distinguished gentleman from Michigan [Mr. BROOMFIELD], the ranking minority member of the committee, for his remarks.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and pass the bill, H.R. 6018.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 6018.

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

There was no objection.

WOMEN'S SOCCER AS A MEDAL SPORT IN 1996 OLYMPICS

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 127) to express the sense of Congress that women's soccer should be a medal sport in the 1996 Centennial Olympic Games in Atlanta, GA.

The Clerk read as follows:

S. CON. RES. 127

Whereas participation in soccer programs by women in the United States and abroad has increased dramatically since 1988;

Whereas 45 nations competed in the 1st Women's World Soccer Championships in the People's Republic of China;

Whereas the United States Women's National Soccer Team won the 1st Women's World Soccer Championships;

Whereas bids have been extended to host the 2d Women's World Soccer Championships;

Whereas 64 nations have a national women's soccer team;

Whereas 40 percent of young soccer players in the United States are female;

Whereas one-third of the children under the age of 18 in the United States play soccer;

Whereas 26 percent of the more than 29,000 soccer players at the college level in the United States are women;

Whereas one-third of the 327,000 soccer players at the high school level in the United States are women;

Whereas, during the 1990–1991 school year, high schools in the United States added soccer to their sports programs more often than any other sport;

Whereas Atlanta, Georgia, will host the 1996 Olympic games;

Whereas many nations have announced that they will give women's soccer priority in their Olympic programs once it becomes a medal sport; and

Whereas the Congress has in the past designated a special day to honor women and girls in sports: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

The SPEAKER pro tempore. Pursuant to the rules, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

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

Mr. Speaker, this resolution, which passed the other body on September 25, provides unequivocal support to efforts to make women's soccer a medal sport in time for the next Olympic games to be held in Atlanta in 1996. I would like to commend the gentleman from Virginia [Mr. MORAN] for his leadership in assuring timely consideration of this measure.

Soccer is one of the most popular sports throughout the world. It is a sport played by youngsters everywhere and it is a sport enjoyed by young and old, men and women, as both participants and fans. It is a sport so univer-

sal in its appeal that it is surprising that it is not already an Olympic sport for both men and women. But somehow, women's soccer has not been honored by being designated an Olympic medal sport. We hope that this resolution will help end that oversight.

While baseball, American football, and basketball remain the chief U.S. team sports, soccer is spreading rapidly in popularity. Women's soccer in particular is a fast growing major sport. One out of three youngsters in the United States under age 18 play soccer. In fact, 40 percent of youth soccer players in our country are female; one-fourth of college soccer players are female, and one-third of all high school soccer players are female.

Let's send a powerful message to the International Olympic Committee. I urge my colleagues to support women's soccer by voting for Senate Concurrent Resolution 127.

I want to take this opportunity to recognize the contribution of Mike Finley of the Foreign Affairs Committee for his work on this measure.

□ 1600

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

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

Mr. Speaker, I want to express my support for this resolution.

The most popular sport around the world, soccer is fast becoming a favorite sport in this country as well. Youth soccer leagues exist all around the Nation, and enjoy increasingly widespread participation.

Many of the kids who first joined these youth soccer leagues over a decade ago are now representing the United States in international competition. The winning performance of the U.S. women's team at the Women's World Soccer Championships demonstrates how the United States is rapidly becoming a world power in this sport.

The International Olympic Committee should recognize the great popularity that soccer enjoys among women around the world, and the high quality of play in women's soccer. It is time to give the U.S. women's soccer team a chance to go for the gold in Atlanta.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 127.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just considered and concurred in.

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

There was no objection.

CALLING FOR UNITED STATES TO HOST 1998 PLENIPOTENTIARY CONFERENCE OF THE INTERNATIONAL TELECOMMUNICATIONS UNION

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 566) calling for the United States to host the 1998 Plenipotentiary Conference of the International Telecommunications Union.

The Clerk read as follows:

H. RES. 566

Whereas the United States last hosted the International Telecommunications Union Plenipotentiary Conference in 1947;

Whereas in the period since that Conference, the union of computers and telephony has ushered in the drawing of the "Information Age";

Whereas the United States recognizes the importance of the International Telecommunications Union (ITU) in setting global standards, frequency allocation, and regulation of the use of geostationary orbit slots for satellites;

Whereas France hosted the last Plenipotentiary Conference in 1988, Japan is scheduled to host the 1994 Conference, and these countries are among our strongest international competitors in the provision of telecommunications goods and services;

Whereas the International Telecommunications Union Plenipotentiary Conference brings together many of the world's most influential government and private sector telecommunications officials and hosting the 1998 Conference would provide United States business, particularly small business, with an opportunity to interact with these officials and showcase American products and talent; and

Whereas the United States, as the preeminent supplier of telecommunications goods and services, by hosting the 1998 International Telecommunications Union Plenipotentiary Conference, would underscore the essential role of the United States in the international telecommunications arena: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the United States Government should extend an invitation to host the 1998 International Telecommunications Union Plenipotentiary Conference at the earliest appropriate opportunity.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

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

Mr. Speaker, I rise in support of House Resolution 566 which resolves that the United States should extend an invitation to the International Telecommunication Union to host the 1998 Plenipotentiary Conference of its 172 member countries.

The activities of the ITU are of growing importance to the U.S. telecommunications industry through its role in the international marketplace in facilitating global standards, allocating frequencies, and in allocating geostationary orbital slots. A healthy telecommunications industry is critical to the U.S. economy and national security and the ITU is becoming increasingly critical to that segment of our economy.

The last Plenipotentiary Conference was hosted by France and the next is to be hosted by Japan, two of the United States most significant competitors in telecommunications technology and services. The importance of the ITU has not been lost by these nations. In contrast the United States has not hosted an ITU Plenipotentiary Conference since 1947.

This resolution is an attempt at trying to rectify this situation. House Resolution 566 expresses the sense of the House of Representatives that the U.S. Government should extend an invitation to host the 1998 ITU Plenipotentiary Conference at the earliest appropriate opportunity. Mr. Speaker I urge my colleagues to support this resolution.

Before ending, I want to thank Foreign Affairs Committee staffer, Richard McBride, who contributed immensely to House Resolution 566.

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

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

Mr. Speaker, I join in urging our colleagues to approve this resolution which calls for the United States to host the international meeting of telecommunications experts in 1998.

The United States continues to be the world's leader in telecommunications goods and services. Our willingness to host the 1998 Conference of the International Telecommunications Union will underline our intention to remain an active participant in this growing and dynamic field.

Every 5 years, this international conference brings together many of the world's most influential government and private sector telecommunications officials. Aside from the important is-

sues to be discussed at the Conference, it would provide U.S. businesses, particularly small businesses, with an opportunity to meet with these officials and exhibit American products.

Mr. Speaker, hosting the Conference of the 170-member International Telecommunications Union will be good for the United States as a leader in this field. It will also be good for U.S. business. The House should approve this resolution, and endorse an invitation from the United States to the ITU to meet in the United States in 1998.

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

Mr. BROOMFIELD. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like at this time to again express my deepest appreciation to the gentleman from Michigan, who is the esteemed senior ranking member of the House Committee on Foreign Affairs. I want to say that Mr. BROOMFIELD will be sorely missed by this Member with his retirement this year.

I want to wish him the best in his endeavors and that they all be fruitful. I hope that despite his departure from this Chamber in the new session of the 103d Congress, that I, along with the other Members on both sides of the aisle, will continue to benefit from and draw upon his wisdom and the vast amount of experience that he possesses in foreign affairs. Certainly, Mr. BROOMFIELD with his work in Congress over so many years has made tremendous, important contributions to this great Nation of ours. With the gentleman from Michigan leaving at the end of this Congress, I just wanted to note for the RECORD that his leadership, guidance, and foresight will be greatly missed.

Mr. BROOMFIELD. Mr. Speaker, I want to thank the gentleman for his very generous remarks. The feeling is mutual. I obviously will regret not being around here, but after 36 years, I am ready for retirement. I will be here in the Washington area, so our paths will cross in the future, too. I thank the gentleman very much for his nice comments.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and agree to the resolution, House Resolution 566.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and adopted.

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

There was no objection.

REGARDING FLIGHT OF REFUGEES AND DISPLACED PERSONS IN YUGOSLAVIA

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 557) concerning the plight of refugees and displaced persons in the former Yugoslav Republics.

The Clerk read as follows:

H. RES. 557

Whereas refugees and displaced persons from the former Yugoslav republics, particularly those from Bosnia-Herzegovina, have endured tremendous suffering;

Whereas the problem of refugees and displaced persons represents a humanitarian crisis with significant international repercussions;

Whereas the number of missing persons whose fate is uncertain has reached an unacceptably high level;

Whereas the results of the abhorrent process of "ethnic cleansing" cannot be accepted by the international community;

Whereas the United Nations has undertaken commendable and courageous actions to alleviate the suffering of refugees and displaced persons; and

Whereas Serbia and its ally Montenegro are considered to be primarily responsible for creation of the refugee and displaced persons crisis: Now, therefore, be it

Resolved, That the House of Representatives—

(1) urges the President to assist the United Nations in intensifying measures to address the plight of refugees and displaced persons from the former Yugoslav republics, especially Bosnia-Herzegovina, including—

(A) the expansion of existing efforts by the United Nations High Commissioner for Refugees in the former Yugoslav republics to expedite assistance to refugees and displaced persons for the duration of the crisis;

(B) immediate provision of emergency shelter, foodstuffs, sanitation facilities, and medical care to refugees and displaced persons from Bosnia-Herzegovina;

(C) expansion of the registration process for all refugees and displaced persons in order to determine the magnitude and nature of refugee flows, with reliance on the assistance of appropriate agencies of the United States Government as necessary;

(D) a general accounting of persons missing, captured, injured, or killed in hostilities, in coordination with concerned governments, the International Committee of the Red Cross, and other groups which may have relevant information; and

(E) a determination of the places of origin of each refugee and displaced person, and inventories of abandoned property, to assist in the eventual process of repatriation and compensation; and

(2) urges the President to seek international agreement on the following—

(A) reaffirming the right of all refugees to return to their former residences and to receive appropriate compensation;

(B) to the extent consistent with international law, authorizing the use of seized assets of the former Yugoslav Government to assist the international relief effort; and

(C) declaring null and void any documents signed under duress which transfer property of members of one ethnic group to members or organizations of another ethnic group.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

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

I would like to thank Chairman FASCELL and our ranking member, Mr. BROOMFIELD, for recognizing the importance of this resolution and bringing it to the floor. I am also grateful to Representatives HAMILTON, GILMAN, YATRON, and BEREUTER for expediting their respective subcommittee procedures. Finally, let me recognize the valuable assistance of the staff of the full committee as well as the staffs of the human rights and international organizations and Europe and Middle East subcommittees.

All of us have experienced a sense of horror and outrage over the reports and images of systematic executions, concentration camps, and mass expulsions in former Yugoslavia.

This conflict poses a significant threat to international security for a variety of reasons, not the least of which is that it has generated over 2.3 million refugees and displaced persons.

As the Balkan winter approaches, relief officials warn that tens of thousands of already devastated victims will soon face the risk of death because they lack adequate shelter and supplies to survive the coming harsh weather.

By calling for an intensification of relief efforts, my resolution represents a means for translating our desire to do something into concrete actions. This Nation can help bring material comfort to the refugees and displaced persons and avert this winter's looming tragedy.

We are under no illusions that the provision of relief represents a long-term solution to this conflict. Ultimately, the parties themselves must come to terms with one another. In the meantime, however, this resolution lays out the fundamental principles that should guide future actions by the international community to help bring order to this chaotic situation.

For example, my resolution urges the President to seek international agreement on the fundamental rights of refugees and displaced persons, including the right of return and compensation. It also addresses the abhorrent process of ethnic cleansing by asking the President to pursue an agreement declaring null and void those documents signed under duress which result in forcible property transfers among ethic groups. Such actions would send a clear mes-

sage that intimidation, theft, and expulsion will not be tolerated.

A crucial and central feature of this resolution is its provision to establish a comprehensive documentation mechanism for all refugees and displaced persons. The development of a reliable enumeration procedure will provide a clearer picture of refugee flows and, more importantly, will ultimately hold all sides accountable for the safety, repatriation, and compensation for persons who have been forced to flee their homes.

While the Congress has held the Government of Serbia and Montenegro primarily responsible for the conflict and subsequent forced migrations, this resolution makes no ethnic distinctions when it comes to defining the rights of refugees or the provision of relief.

I urge my colleagues to join me in passing this resolution and sending a strong signal of commitment to the refugees and displaced persons in former Yugoslavia, who undoubtedly feel that the international community is not sufficiently engaged in addressing their plight.

The message we send today is this:

The United States and the community of nations care what happens to these people, and we are keeping track of them.

Today, the Washington Post reports on its front page that the refugee crisis is worsening dramatically as Serbian forces have intensified their drive to brutally cleanse northwestern Bosnia of its remaining Moslems. Need I say that this horrible news lends greater urgency to our efforts to pass this timely resolution.

Should we fail to act now, the humanitarian crisis will most certainly deepen before Congress can next act on this important issue in January. By that time it may be too late. This is protection we can offer today.

I would add that the administration has no objection to this resolution.

I thank my colleagues for their thoughtful attention and urge their support.

□ 1610

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

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

Mr. Speaker, I strongly support the resolution before us concerning the plight of refugees and displaced persons in the former Yugoslavia. I commend Congressman SAWYER for this timely legislative initiative.

The tragedy in the former Yugoslavia continues to unfold. The terrible policy of ethnic cleansing by ethnic Serbians goes on as part of the scheme of Serbian President Slobodan Milosevic to build a Greater Serbia.

In recent months, the world has been shocked to learn about the existence of prison camps where innocent human beings are executed, starved, and tortured. Many of the stories and photographs of the camps in Bosnia and the displaced families remind me of the events in Europe many years ago when another madman tried to impose his vision of a future Europe.

Serbian aggression has taken at least 20,000 lives, wounded far more, and displaced over 2 million civilians. Thousands in Bosnia are unaccounted for. The ongoing crisis in Yugoslavia is the most serious conflict in Europe since the end of the Second World War; the innocent victims of this pointless violence deserve our help.

This resolution urges the President to continue working with the United Nations to do more for refugees and displaced persons. It also urges an expansion of programs by the U.N. High Commissioner for Refugees. In additon, this resolution calls for the provision of emergency food and shelters for refugees, and reaffirms the right of these people to return to their homes. With the coming of winter in former Yugoslavia, additional assistance must be provided to these innocent people who have suffered so much as the result of the reckless policies of Serbia's Communist government.

My heart and those of all Americans go out to people throughout the world who have lost friends and loved ones during this terrible bloodletting in the former Yugoslavia. The war there is a true catastrophe for a country that once prided itself for ethnic harmony. America must work with the United Nations to ensure that we are doing everything possible to assist those in need in those troubled lands.

I urge my colleagues to join me in supporting this important resolution.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Michigan for yielding time to me.

Mr. Speaker, as ranking member on the Subcommittee of Human Rights, this Member rises in strong support of House Resolution 557. It goes straight to the heart of one of the most troubling international crises that the international community must face.

We are all aware of the massive dislocation that has been caused by the civil war and ethnic conflict in Yugoslavia. Age old animosities have once again surfaced with decidedly lethal consequences. The situation is particularly tragic in Bosnia, where the ethnic mix of Orthodox Serbs, Catholic Croats, and Moslems had managed to coexist for generations. Not long ago ethnic harmony had been the norm—now this has been replaced by blood feuds and senseless carnage.

Mr. Speaker, there is plenty of blame to pass around. Elements of the Croatian community have acted aggressively, and portions of the Moslem community have sought to crate a Moslem state in Europe. But it is clear that the Bosnian Serb partisans bear the bulk of the responsibility for the suffering in Bosnia and the rest of Yugoslavia. Bosnian Serb militiamen, with their abominable crusade of ethnic cleansing, have proceeded to tear apart communities where people of different faiths have long lived peaceably.

Hunderds of thousands of Bosnians have been forced, quite literally at gunpoint, to sign over their property and flee from their homes. Everything they own has been taken from them. It is estimated that, out of a total Bosnian population of 4 million, that over 1 million are now refugees. The great majority of these are Moslems and Croats who have been forced to flee from territories controlled by Serb militiamen.

As disgusting as this callous seizure of property is, Mr. Speaker, there are far more heinous activities occurring. The State Department now acknowledges credible reports of the murder of some 3,000 men, women, and children who were detained at Serbian-run detention camps near the Bosnian town of Brcko. These are people who are apparently murdered simply because their parents were not Serbian. If the report is, indeed, true, nothing, absolutely nothing, can excuse this vile slaughter of innocent civilians, and this body has a moral obligation to speak decisively in condemning Serbian atrocities.

Under U.N. Security Council Resolution 771, the United Nations is empowered to fully investigate the situation in the detention camps, whoever might run them. In addition, the United Nations has the authority to convene a war crimes tribunal to bring to trial those who are responsible for these terrible acts. This Member would urge the United Nations to act swiftly and decisively to bring this practice to an end and the perpetrators to justice. This Member would also say that the United States and the European Community must be much more active in putting an end to the senseless slaughter and violence that has overtaken Yugoslavia.

Mr. Speaker, this Member would commend the author of this resolution, the distinguished gentleman from Ohio [Mr. SAWYER], for his leadership and persistence in pursuing this matter. His resolution makes it clear that the United States will not ignore those who have been forced to flee for their lives. This Member commends him for his efforts, and I would say that I will gladly work with him or any other Members in pursuing other initiatives aimed at ending the tragic conflict in the Balkans.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, I came over here for another reason, and I did not know that this was on the floor. I do want to commend the gentleman from Ohio [Mr. SAWYER] for taking the lead on House Resolution 557. I do have a couple of questions I would like to ask.

I would ask the gentleman, are we talking about all refugees throughout the whole area? There are 2½ million refugees from all of these republics.

Mr. SAWYER. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I would reply that yes, it is virtually all refugees without regard to ethnic or national status. While previous resolutions may have sought to attribute blame for the circumstances that caused this, this resolution does not. It recognizes that all human tragedy is equal in a circumstance like this.

Mrs. BENTLEY. Mr. Speaker, I think that is very important, and I do want to join in, then, in supporting this. Fingers have all been pointed at Serbia regularly. There are in Serbia 527,000 refugees right now, 90,000 of whom are Muslims, and most, about 400,000 of these refugees, have been living in people's private homes there.

Because of the economic sanctions that have been imposed they are now facing the problem of having to turn those people out because they cannot feed them and they do not have the warmth any more to keep them warm, so we have a double problem with all of these people who are homeless and are going to be thrown out. I am very delighted that the gentleman is covering everybody in this, and I want to join in this resolution.

□ 1620

This is a tragedy. It is a real tragedy, and I have been spending many, many hours trying to help resolve it. Just a few minutes ago we ended a briefing by Bishop Atanasije Jevtie who is the Serbian Orthodox bishop of Hercegovina, and I was pointing out the problems that have arisen there in the short time that he has been with all of the people, and he presented some very interesting information for the members of the Human Rights Caucus and the Helsinki Caucus.

Again I do want to thank the gentleman for yielding me the time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I just wanted to take a moment to thank both the gentlewoman from Maryland for her thoughtful comments and question and the gentleman from Nebraska for his powerful endorsement of this.

I also want to take a moment to identify and associate myself with the comments of my friend from American Samoa, Mr. FALEOMAVAEGA, with regard to our friend, the gentleman from Michigan [Mr. BROOMFIELD], whose standards of bipartisanship and collaboration really set a model for us all as we seek to engage the United States in the coming decades across the frontiers of this changing world, and to suggest that his service in this chamber is among the best argument I know against the folly of term limitations.

Mr. HOYER. Mr. Speaker, I rise in strong support of House Resolution 557, of which I am a cosponsor. This resolution focuses needed attention on the plight of refugees and displaced persons in the former Yugoslav republics.

The crisis that has caused Yugoslavia's violent disintegration, has created over 2 million refugees and displaced persons in the process. Some are the victims of ethnic cleansing policies, while other fled from the fighting that consumed their once peaceful villages and towns. Many have no homes to which they can return. And, as the fighting uproots more and more innocent civilians, winter is beginning to set in, straining the already large international effort to assist the fleeing masses. A particular burden is held by those neighboring or nearby countries to which the refugees escape. The United States, for its part, has delivered, to date, more than $50 million worth of assistance, and has promised an additional $40 million to help the refugees survive what will be a difficult winter.

This resolution reaffirms our support for and encouragement of such efforts. It also states some important principles that the international community should follow, such as reaffirming the right of refugees to return to their former residences and to receive appropriate compensation, and declaring property transfer documents signed by refugees under duress to be null and void. As chairman of the Helsinki Commission, I view principles such as these to be critically important.

I would also point out, Mr. Speaker, that this resolution correctly states that Serbia and Montenegro, who together make up a new Yugoslav federation, are primarily responsible for the creation of the refugee crisis, but it does not in any way discriminate against refugees or displaced persons. Moslems, Croats, and Serbs have all suffered from this conflict.

In the final analysis, Mr. Speaker, the best solution to the refugee crisis created by the Yugoslav conflict is to bring the fighting to an end, and to begin the processes of reconstruction and reconciliation that must inevitably take place in the region. The sooner we do that, the better. In the meantime, however, we must realize the need for short-term measures to alleviate the plight of those most victimized by this horrible conflict. This resolution helps to do that, and I want to thank and commend my colleague, Representative TOM SAWYER, for taking the lead on this important issue.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and agree to the resolution, H. Res. 557.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

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

There was no objection.

MARTIN LUTHER KING, JR., FEDERAL BUILDING

Ms. NORTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5831) to designate the Federal building located at 312 South Main Street in Victoria, TX, as the "Martin Luther King, Jr., Federal Building," as amended.

The Clerk read as follows:

H.R. 5831

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

SECTION 1. DESIGNATION.

The Federal building located at Main and Church Streets in Victoria, Texas, shall be known and designated as the "Martin Luther King, Jr. Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Martin Luther King Jr. Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. BENTLEY] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

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

H.R. 5831, as amended, is a bill to designate the Federal building located at Main and Church Streets in Victoria, TX, as the "Martin Luther King, Jr., Federal Building." This bill has my enthusiastic and wholehearted support. Dr. Martin Luther King, Jr., is undoubtedly the greatest civil rights leader in this country's history. Through his philosophy and strategy of nonviolence, he pursued his goal of integration in spite of arrest, jailings, and threats on his life.

In December 1964, Dr. King was honored by being awarded the Nobel Peace

Prize. On November 2, 1983, he was further honored by having a law passed making the third Monday in January of each year be a national holiday in his memory.

The honor bestowed on Dr. King by this legislation is well deserved for this remarkable leader and I urge support for its enactment.

I urge adoption of H.R. 5831, as amended, and I reserve the balance of my time.

Mrs. BENTLEY. Mr. Speaker, I yield myself so much time as needed.

Dr. Martin Luther King's influence as a civil rights leader is still being felt some 24 years after his tragic death. His famous "I Have a Dream" speech continues to provide a powerful framework wherein thousands of individuals each year are encouraged to strive for a better life.

Dr. King's contributions are immeasurable, and thus it is most appropriate that we honor him by naming the Federal building in Victoria, TX, as the "Martin Luther King, Jr., Federal Building." I especially want to commend GREG LAUGHLIN for introducing this bill and moving it through the Public Works Committee. I urge approval of the bill.

Mr. LAUGHLIN. Mr. Speaker, today I rise in strong support of H.R. 5831, legislation I recently introduced to designate a Federal building in Victoria, TX, as the "Martin Luther King, Jr., Federal Building."

Mr. Speaker, naming the Federal building located at Main and Church Street in Victoria, TX, is a true reminder of the influence that Dr. King was for all of us, not just Americans of African descent, but Americans whose origins can be found in all corners of the globe.

The unnamed Federal building is a downtown landmark, and is visited by hundreds and seen by thousands of Victoria residents and visitors on a daily basis.

A memorial to Dr. King placed at this site will provide continued inspiration to all who visit it, particularly to the hundreds of young men and women in the community.

Mr. Speaker, it is my hope that the young people in this Victoria community who visit this building will come to understand that it recognizes not only the contributions of this great leader, but also two very basic principles necessary for the healthy functioning of our society.

The first is that change, even very fundamental change, is to be achieved through nonviolent means.

The other basic principle is that the reconciliation of the races, the inclusion into the mainstream of American life of all its people, is essential to the basic health of this Nation.

Mr. Speaker, Dr. King helped us to see that we can bring down all barriers that are placed in our way. This great undertaking was not without pain, and is not yet complete, but is transforming this Nation for the better.

Dr. Martin Luther King, Jr., dedicated his life to achieving equal treatment and enfranchisement for all Americans through nonviolent means.

Mr. Speaker, I hope you can understand why I believe it would be most appropriate to recognize Dr. King by naming the Federal building in Victoria in his honor.

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

Ms. NORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the District of Columbia [Ms. NORTON] that the House suspend the rules and pass the bill, H.R. 5831, as amended.

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

The title of the bill was amended so as to read: "A bill to designate the Federal Building located at Main and Church Streets in Victoria, TX, as the 'Martin Luther King, Jr., Federal Building.'"

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative day in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

RICHARD H. CHAMBERS U.S. COURT OF APPEALS BUILDING

Ms. NORTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5822) to designate the U.S. Court of Appeals Building located at 125 South Grand Avenue in Pasadena, CA, as the "Richard H. Chambers United States Court of Appeals Building."

The Clerk read as follows:

H.R. 5822

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

SECTION 1. DESIGNATION OF BUILDING.

The United States Court of Appeals Building located at 125 South Grand Avenue in Pasadena, California, shall be known and designated as the "Richard H. Chambers United States Court of Appeals Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Richard H. Chambers United States Court of Appeals Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. BENTLEY] will be recognized for 20 minutes.

The Chair recognized the gentlewoman from the District of Columbia [Ms. NORTON].

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

H.R. 5822, is a bill to designate the building located at 125 South Grand Avenue in Pasadena, CA, as the "Richard H. Chambers United States Court of Appeals Building." Richard H. Chambers has had a very distinguished legal career. Following college at the University of Arizona in 1929, and law school at Stanford University in 1932, he worked in private practice from 1932–41. His career was interrupted for military service until 1945, when he resumed private practice until 1954.

On May 13, 1954, President Eisenhower appointed Richard H. Chambers to the U.S. Court of Appeals for the Ninth Circuit. He served as chief judge for 17 years until December 31, 1976, when he took senior status.

He has enjoyed an outstanding reputation as a jurist and is richly deserving of this honor.

I urge adoption of H.R. 5822, and I reserve the balance of my time.

Mrs. BENTLEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5822 which will designate the U.S. Court of Appeals Building in Pasadena, CA, as the "Richard H. Chambers United States Court of Appeals Building."

Judge Chambers was appointed to the U.S. Court of Appeals for the Ninth Circuit in 1930. He served as chief judge for 17 years from August 6, 1959, to June 30, 1976. Prior to his appointment to the bench, Judge Chambers served in the U.S. Army Air Corps during World War II.

Given Judge Chambers's distinguished record of public service, H.R. 5822 is a fitting tribute. I want to commend my colleague, CARLOS MOORHEAD, for introducing this bill and bringing it to the committee's attention. I urge my colleagues to support the bill.

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

I rise in support of H.R. 5822.

I very much appreciate the work and leadership provided by the gentleman from Illinois [Mr. SAVAGE] and the gentleman from Oklahoma [Mr. INHOFE]. I also would like to thank the gentleman from New Jersey [Mr. ROE] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their assistance.

H.R. 5822 would rename the Vista Del Arroyo Building in Pasadena, CA, after Judge Richard H. Chambers. Judge Chambers was most active in getting the court moved to this building, a historic landmark that has been newly renovated.

Judge Chambers was appointed to the U.S. Court of Appeals for the Ninth Circuit on April 30, 1954, and entered on duty May 13, 1954. He served as chief judge for 17 years from August 6, 1959, to June 30, 1976. He took senior judge status on December 31, 1976. He is a graduate of the University of Arizona, receiving an A.B. degree in 1929, and Stan-

ford University, receiving an LL.B. degree in 1932. During World War II he served in the U.S. Army Air Corps, 1942–45. I have attached his bio to my statement.

Since he was the guiding light behind this development, I feel it is only right and just that the court be named in this honor. Neither of the California Senators, nor the Governor, has any objection to this proposal. Congressman ROYBAL is also a sponsor of the legislation.

As I pointed out, Judge Chambers is an outstanding jurist who has devoted much of his adult life to public service on the beach. Presently he is a senior judge, 86 years old and has been in the hospital since July of this year. Although initially he resisted having the courthouse named after him, he has withdrawn that resistance. I urge support for this legislation.

CHAMBERS, RICHARD H.—BIBLIOGRAPHY

Judge Chambers was appointed to the United States Court of Appeals for the Ninth Circuit on April 30, 1954 and entered on duty May 13, 1954. He served as Chief Judge from August 6, 1959 to June 30, 1976. He took senior judge status on December 31, 1976. He is a graduate of the University of Arizona, receiving an A.B. degree in 1929, and Stanford University, receiving an LL.B. degree in 1932. During World War II he served in the United States Army Air Corps, 1942–1945.

Judge Chambers was a member of the Judicial Conference of the United States, 1959–1976; the Committee on Judicial Statistics, 1960–1969; the Executive Committee, 1970–1975; and Chairman of the Committee on Pacific Ocean Territories, 1976–1982.

Judge Chambers is married to the former Mary Martin and has two daughters: Martha Chambers Froese and Janet Chambers Crews. He is a member of the American Bar Association, the American Law Institute, the American Judicature Society, and the Institute of Judicial Administration.

Mrs. BENTLEY. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Ms. NORTON. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the District of Columbia [Ms. NORTON] that the House suspend the rules and pass the bill, H.R. 5822.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1630

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5822, the bill just passed.

The SPEAKER pro tempore (Mr. DARDEN). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

RONALD REAGAN BUILDING

Ms. NORTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4281) to designate the U.S. Federal building and U.S. courthouse to be located at Fifth and Ross Streets in Santa Ana, CA, as the "Ronald Reagan Building" as amended.

The Clerk read as follows:

H.R. 4281

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

SECTION 1. DESIGNATION.

The Federal building and courthouse to be constructed at Fifth and Ross Streets in Santa Ana, California, shall be known and designated as the "Ronald Reagan Federal Building and Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and courthouse referred to in section 1 shall be deemed to be a reference to the "Ronald Reagan Federal Building and Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. BENTLEY] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

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

H.R. 4281, as amended, is a bill to designate the Federal building and courthouse to be constructed at Fifth and Ross Streets in Santa Ana, CA, as the "Ronald Reagan Federal Building and Courthouse." It is always a pleasure and a privilege to recognize a President of the United States by designating a Federal building and courthouse in his honor.

I urge adoption of H.R. 4281, as amended.

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

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

Mr. Speaker, I want to commend our colleague, Mr. COX, for his diligence and persistence on this bill. He has, I believe, identified a very fitting tribute to former President Ronald Reagan. Since President Reagan is a longtime resident of California and a former Governor of California, it is very fitting that we honor his accomplishments by naming a new Federal building and courthouse for him in his home State.

During his tenure as President, Ronald Reagan distinguished himself not only as a statesman on domestic issues, but also in the international arena. His challenge to then President Gorbachev to tear down the Wall began the process of ending the cold war.

Unquestionably his contributions to the Nation and the world will long be remembered and admired. Therefore, I am pleased to rise in strong support of this effort, and I urge my colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. COX], the author of this bill.

Mr. COX of California. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 4281, which will, as has been described, officially name the new Orange County courthouse the Ronald Reagan Federal Building and Courthouse.

It is once in every generation or two that an extraordinary individual comes along who has a significant impact not only on national events but on the values and aspirations of people all over the world. Ronald Reagan was such a person.

Already history has recorded the enormously positive impact that Ronald Reagan has had on this Nation and on the development of freedom and democracy around the world.

Mr. Speaker, I was fortunate to have had the opportunity to serve President Reagan as his senior associate counsel in the White House. Having worked with the President, I speak from experience when I say that his geniality, his good humor, his steady judgment, and his constancy of purpose are traits that every statesman should emulate, and his message of optimism and inclusion which generated so much pride, energy, and enthusiasm during his Presidency is one that every American and every freedom-loving human being will be wise to take to heart.

Ronald Reagan was the first American President since Dwight Eisenhower to serve out two full terms, and he left office as one of the most popular Presidents of all time. His accomplishments are legion under his leadership. The economy grew by the size of West Germany, 20 million jobs. More Americans were working than at any time in our history. Interest rates were cut in half, while inflation was reduced from 13 percent to 3 percent. The Reagan Presidency marked the longest period of sustained economic growth in peacetime American history.

Just as impressive is President Reagan's tremendous positive impact on the international scene. Ronald Reagan did not seek to contain communism but to liberate its subjects and extend freedom and democracy around the globe. He challenged the Soviet Communist Party's chief, "Mr. Gorbachev, tear down this wall," and he backed it up with United States nuclear missiles in Europe, and aggressive development of the strategic defense initiative, and consistent support of anti-Communist heroes throughout the Soviet Empire. Afghanistan, with United States support, defeated the Red army, the Berlin Wall did come down, and Poles, Hungarians, Czechs, Slovaks, and Germans were free at last.

As the Western forces of free enterprise and democracy, following the lead of President Reagan, brought about the collapse of the Soviet Union's outer empire, the captive nations of Lithuania, Latvia, and Estonia became independent not only in theory but in fact.

Finally, as the inner Soviet Empire fell, captive nations such as Ukraine and Armenian became sovereign States once again.

President Reagan always put his faith in the people rather than in government. Perhaps George Will put it best when he said that President Reagan knows what Dr. Johnson knew, that people more often need to be reminded than informed. By communicating a vision of what is best about America, he succeeded beyond any of our wildest imaginings in motivating and energizing this Nation.

U.S. News & World Report summed it up as follows:

> Ronald Reagan proved that the Presidency still works, that it is still possible to succeed in the Presidency by skillfully exercising its powers of symbol, ceremony, and vision.

And he helped the Nation regain its self-confidence.

It is especially fitting that we name this new courthouse for President Ronald Reagan in light of his enormous influence in establishing the rule of law in place of Communist dictatorship for so many of our fellow human beings, and although Ronald Reagan now belongs to the citizens of the world and to the ages, those of us who are Californians will always think of him as the favorite son of our Golden State. Mr. Reagan spent the majority of his adult life living and working in California, and during this more than three decades of public service developed an unparalleled kinship and popularity with tens of millions of respectful and grateful people.

By all accounts, California's support for Ronald Reagan in California is nowhere stronger than in my home, Orange County, whose citizens I am now privileged to represent.

Although Orange County has grown phenomenally over the last 20 years, its access to justice has not followed suit. Currently more than 2.4 million Orange Countians have no permanent Federal courthouse, but fortunately, because of the farsighted leadership of the Committee on Public Works and Transportation, we are now well on our way to rectifying that.

The General Services Administration, the Administrative Office of the U.S. Courts, and the Congress have agreed upon and are working together to construct the first permanent Federal courthouse in Orange County.

Design work is now underway, and soon Orange County residents will finally have ready access to justice in their own community.

Naming this facility for Ronald Reagan is one small way Californians can say thanks for his over 30 years of public service and his extraordinary legacy in California and around the world.

My legislation, H.R. 4281, has the support of every county, State, and Federal official in Orange County, Republican and Democrat. Many of them have written to the Committee on Public Works and Transportation in support of honoring President Reagan in this way.

Mr. Speaker, I am especially pleased we are naming this building today before the adjournment of the 102d Congress. This will be the first ever Federal building named after President Reagan. Rather than waiting for future generations to honor his memory, we are honoring President Reagan today himself. The people of Orange County and the people of California and the Nation want to let President Reagan know of their deep appreciation for his hard work and dedication.

Naming the building today will give us that opportunity.

I appreciate the support of my colleagues on the Subcommittee on Public Buildings and Grounds in the passage of this bill, and I urge all of my colleagues to vote in favor of this legislation.

Mrs. BENTLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the distinguished ranking minority leader on the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to commend the gentleman from California [Mr. COX] for his initiative on H.R. 4281 and also to thank the chairman of the subcommittee, the gentleman from Illinois [Mr. SAVAGE], and the vice chairman of the subcommittee, the gentlewoman from the District of Columbia [Ms. NORTON], and the gentlewoman from Maryland [Mrs. BENTLEY] for managing this bill.

Mr. Speaker, I rise in strong support of H.R. 4281, which will designate the Federal building and courthouse to be constructed at 5th and Ross Streets in Santa Ana, CA, as the "Ronald Reagan Federal Building and Courthouse." This is a fitting tribute to former President Reagan, given his long and distinguished service to the people of California and the Nation.

During his administration, President Reagan put forward a strong domestic agenda, and one that was characterized by limited government and lower taxes. He was determined to lift the burden of Federal bureaucracy from the shoulders of American business, and to ease the tax burden of American taxpayers.

In the area of international affairs, President Reagan was outspoken in his resolve to use American foreign policy to encourage freedom and democracy throughout the world and to bring an end to Communist rule in Eastern Europe. Under his leadership, the beginning of the end of the cold war was set in motion and the foothold of democracy in central America became stronger.

President Reagan is without question one of the great statesmen of our time, and it is very appropriate that we honor him in this way. I urge my colleagues to support H.R. 4281.

Mr. PACKARD. Mr. Speaker, I would like to rise in support of the bill H.R. 4281 introduced by my colleague from California, CHRISTOPHER COX, which seeks to name the new Orange County courthouse in honor of President Ronald Reagan.

As a representative of Orange County, and a proud American, I believe that it would be a tribute to both President Reagan as well as the residents of Orange County to do so.

It was our 40th President who proclaimed that:

> America is back, a giant, powerful in its renewed spirit, its growing economy, powerful in its ability to defend itself and secure the peace, and powerful in its ability to build a new future. This is not debatable.

As by ushering this renewed spirit, President Reagan led this country through the longest period of peacetime economic expansion. This is a fitting salute to a man who's vision and convictions changed America's course for the better, and made Americans believe in themselves again.

President Reagan reoriented our defense policy to reflect his belief that peace could be achieved through strength. The fall of the Berlin Wall and the collapse of communism in the former Soviet Union are a part of the Reagan legacy.

Also a part of this great president's legacy was his conviction that a government big enough to give everything to you, was a government big enough to take everything away. His principles were economic and social self-determination. That is why he cut personal tax rates by 25 percent; to restore economic freedom to the families of America, instead of feeding their hard-earned tax dollars to that insatiable beast, the Federal Government.

I urge my colleagues to support this measure to name the new Orange County courthouse after one of our greatest Presidents: Ronald Reagan.

Mrs. BENTLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. NORTON. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentlewoman from the District of Columbia [Ms. NORTON] that the House suspend the rules and pass the bill, H.R. 4281, as amended.

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

The title of the bill was amended so as to read: "A bill to designate the Federal building and courthouse to be constructed at 5th and Ross Streets in

Santa Ana, CA, as the 'Ronald Reagan Federal Building and Courthouse'."

The motion to reconsider was laid on the table.

□ 1640

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4281, the bill just passed.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS WITH REGARD TO THE GREAT LAKES

Mr. NOWAK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5990) to amend the Federal Water Pollution Control Act to provide for assessments of contaminated sediments at areas of concern in the Great Lakes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5990

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

SECTION 1. GREAT LAKES MANAGEMENT.

(a) REMOVAL OF TOXIC POLLUTANTS.—Section 118(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(7)) is amended by adding at the end the following new subparagraphs:

"(D) FULL SCALE DEMONSTRATION PROJECTS.—

"(i) IN GENERAL.—The Program Office shall conduct 5 full scale demonstration projects of promising technologies to remedy contaminated sediments at such sites as the Program Office determines are appropriate. In selecting such sites, the Program Office shall give priority consideration to the sites referred to in subparagraph (A).

"(ii) DEADLINES.—The Program Office shall—

"(I) by December 31, 1994, complete engineering plans for the full scale demonstration projects to be conducted under this subparagraph; and

"(II) by December 31, 1999, complete the full scale demonstration projects to be conducted under this subparagraph.

"(E) ASSESSMENTS AND PILOT SCALE DEMONSTRATION PROJECTS.—

"(i) ASSESSMENTS.—The Program Office shall conduct chemical, physical, and biological assessments of contaminated sediments at each area of concern and, based on such assessments, make recommendations on technologies to remedy contaminated sediments at each such area. In conducting such assessments, the Program Office shall incorporate previous findings which are relevant to the assessments and avoid duplication of previous or ongoing efforts.

"(ii) PILOT SCALE DEMONSTRATION PROJECTS.—If, after conducting assessments under clause (i), the Program Office does not have sufficient information to make recommendations on technologies to remedy contaminated sediments at an area of concern, the Program Office shall obtain such information by conducting a pilot scale demonstration project of promising technologies to remedy contaminated sediments at the area of concern.

"(iii) DEADLINES.—The Program Office shall—

"(I) by December 31, 1998, complete assessments of contaminated sediments to be conducted under clause (i);

"(II) by December 31, 1998, transmit to Congress (as part of a comprehensive report required by paragraph (10)) recommendations made under clause (i) on technologies to remedy contaminated sediments for those areas of concern for which the Program Office has sufficient information to make the recommendations and a description of pilot scale demonstration projects to be conducted under clause (ii), including the locations of such projects and engineering plans for such projects; and

"(III) by December 31, 2000, complete all pilot scale demonstration projects to be conducted under clause (ii) and transmit to Congress (as part of a comprehensive report required by paragraph (10)) a final report containing findings on activities conducted under this subparagraph and recommendations for remediation of contaminated sediments at each area of concern.

"(F) DISSEMINATION OF INFORMATION AND COORDINATION.—The Program Office shall assist in and promote the dissemination of information on technologies to remedy contaminated sediments at areas of concern, including the dissemination of such information to Federal departments and agencies.".

(b) LAKEWIDE MANAGEMENT PLANS.—Section 118(c)(4) of such Act (33 U.S.C. 1268(c)(4)) is amended by striking "and" at the end of subparagraph (B) and by striking subparagraph (C) and inserting the following:

"(C) by January 1, 1994—

"(i) publish in the Federal Register a final Lakewide Management Plan for Lake Michigan and begin implementation of such plan; and

"(ii) publish in the Federal Register a proposed Lakewide Management Plan for Lake Ontario and solicit public comments;

"(D) by January 1, 1995—

"(i) submit a proposed Lakewide Management Plan for Lake Ontario to the International Joint Commission for review; and

"(ii) publish in the Federal Register a proposed Lakewide Management Plan for Lake Erie and solicit public comments;

"(E) by January 1, 1996—

"(i) publish in the Federal Register a final Lakewide Management Plan for Lake Ontario and begin implementation of such plan; and

"(ii) submit a proposed Lakewide Management Plan for Lake Erie to the International Joint Commission for review; and

"(F) by January 1, 1997, publish in the Federal Register a final Lakewide Management Plan for Lake Erie and begin implementation of such plan.".

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 118(h) of such Act (33 U.S.C. 1268(h)) is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Administrator to carry out this section $30,000,000 per fiscal year for each of fiscal years 1992 through 1999. Such sums shall remain available until expended.

"(2) ALLOCATIONS.—40 percent of the amounts appropriated pursuant to paragraph (1) in a fiscal year shall be used by the Program Office to carry out assessments and full and pilot scale demonstration projects under subsection (c)(7).".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not apply to amounts appropriated on or before September 30, 1992. Such amounts shall remain available until expended for purposes provided under section 118(h) of the Federal Water Pollution Control Act as in effect on September 25, 1992.

(d) CONFORMING AND TECHNICAL AMENDMENTS.—Section 118(c) of such Act (33 U.S.C. 1268(c)) is amended—

(1) in the heading to paragraph (6), by striking "5-YEAR PLAN AND PROGRAM" and inserting "PLAN AND PROGRAM";

(2) in the heading to paragraph (7), by striking "5-YEAR STUDY AND DEMONSTRATION PROJECTS" and inserting "STUDY AND DEMONSTRATION PROJECTS"; and

(3) in paragraph (7)—

(A) by striking "(A)" and inserting "(A) 5-YEAR STUDY.—";

(B) by indenting subparagraph (A) and aligning subparagraph (A) with subparagraph (B);

(C) by striking "(B)" and inserting "(B) DEADLINES FOR DEMONSTRATION PROJECTS.—"; and

(D) by striking "(C)" and inserting "(C) Publication of information.—".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. NOWAK] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. NOWAK].

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

Mr. Speaker, on September 22, 1992, I introduced H.R. 5990, a bill to continue the activities of the EPA's Great Lakes national program office and continue the research into the assessment and remediation of contaminated sediments [ARCS] in the Great Lakes.

Because of their vast size and volume, it had been thought that the Great Lakes could assimilate almost any amount of waste. Unfortunately, that is clearly not the case. Only about 1 percent of the volume of the lakes flows out of the St. Lawrence River in any year.

The lack of regular flushing leads to the accumulation of toxic chemicals in sediments. Benthic organisms can take up these pollutants allowing them to enter the food chain. Toxics may bioaccumulate in fish, increasing dramatically the concentration of pollutants. Our key impediment to success in remediation of contaminated sediments has been the lack of experience with cleanup technologies. To fill this gap, the Water Quality Act 1987 established a 5-year program for EPA to test sediment cleanup technologies in the Great Lakes. On April 8, 1992, the Subcommittee on Water Resources of the Committee on Public Works and Transportation held a hearing on the assessment and remediation of contaminated sediments in the Great Lakes. Testimony received by the subcommittee was uniformly in support of continuing

the ARCS Program. Interests representing the Great Lakes, the environmental community, business representatives, States, Federal, and international agencies all agreed that the preliminary research of EPA and the Army Corps of Engineers had been very successful.

The bill, H.R. 5990, would extend the program from the pilot experiments to full-scale demonstration projects of promising technologies.

Under the bill, the Great Lakes National Program Office [GLNPO] would be directed to conduct and provide within 2 years engineering plans for full-scale demonstration of contaminated sediment removal at the five priority sites already identified. The Office would also be directed to conduct full-scale demonstrations of contaminated sediments removal action at each of the five sites. If the Office cannot make a remediation recommendation, it is to conduct a pilot scale demonstration of promising remedial technologies. The bill also authorizes GLNPO to carry out an assessment at each of the areas of concern. The Office is further directed to complete a lakewide management plan as mandated by the International Joint Commission for Lake Ontario by 1994 and for Lake Erie by 1995.

Mr. Speaker, the bill as reported by the Committee on Public Works and Transportation had new formula funding of 30 percent or $5 million whichever is less for both monitoring and for carrying out assessments and demonstration projects for remediation of contaminated sites. To give the agency more flexibility, the amendment goes back to the formula under current law that prescribes that 40 percent of funding for the Great Lakes National Program Office be dedicated to assessment and remediation of contaminated sediments, and contains no formula for monitoring.

I urge the Members of the House to support this bill, as amended.

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

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

Mr. Speaker, I rise in support of H.R. 5900, a bill to reauthorize and amend the Clean Water Act's Program to protect water quality and remove contaminated sediments in the Great Lakes.

First, let me commend the leadership of the House Public Works and Transportation Committee for its interest in and efforts behind this bill. Chairman BOB ROE and ranking minority member of the Water Resources Subcommittee, TOM PETRI, have cooperated fully in fashioning and moving H.R. 5990 through committee and to the floor.

And I would be remiss if I did not congratulate the retiring chairman of the Water Resources Subcommittee, HENRY NOWAK, for his leadership and tireless efforts in promoting this bill and protecting the Great Lakes throughout his career in Congress. H.R. 5990 is just one example of his commitment to Great Lakes water quality.

This legislation amends and extends provisions in the Clean Water Act relating to the Great Lakes (section 118). The bill authorizes $30 million a year for 8 years for EPA's Great Lakes National Program Office. It includes specific schedules and directives regarding several demonstration projects assessing and cleaning up contaminated sediment toxic hotspots; it also includes schedules to develop and implement lakewide management plans.

Mr. Speaker, a healthy Great Lakes ecosystem is critically important to this Nation, indeed, to the entire North American continent. EPA's national program has been successful to date. Much work remains to be done, however. The agency's Great Lakes Program deserves continued authorization, guidance, and support. H.R. 5990 can help in that respect.

The committee has included a few substantive changes to the bill since markup on September 24. The amendment included in the motion to suspend the rules modifies the bill's authorization for the priority site demonstration projects and for nutrient and toxics monitoring. The amendment adjusts the minimum allocation for priority site demonstrations and deletes the reference to a minimum allocation for monitoring.

Mr. Speaker, while H.R. 5990 is not a perfect bill, it is worthy of our support. The Nation needs to continue its commitment to the Great Lakes.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NOWAK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. NOWAK] that the House suspend the rules and pass the bill, H.R. 5990, as amended.

The question was taken; and (two-third having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NOWAK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5990, the bill just passed.

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

There was no objection.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS TO EXTEND STORMWATER DISCHARGE DEADLINE

Mr. NOWAK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6004) to amend the Federal Water Pollution Control Act to extend the deadline by which permits for discharges for municipal and industrial stormwater discharges are required until October 1, 1994.

The Clerk read as follows:

H.R. 6004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) is amended in each of paragraphs (1) and (6) by striking "1992" and inserting "1994".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. NOWAK] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. NOWAK].

□ 1650

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

Mr. Speaker, I am pleased to bring to the floor the bill H.R. 6004, which extends the deadline by which permits for certain municipal and industrial stormwater discharges are required until October 1, 1994.

In the Water Quality Act of 1987, which amended the Federal Water Pollution Control Act of 1972, a provision was included establishing a comprehensive, phased approach to the regulation of stormwater discharges. This provision required various permit application deadlines and requirements for certain municipal and industrial stormwater discharges, as well as other discharges of stormwater that could contribute to water quality standard violations or significantly contribute pollutants to waters of the United States.

The 1987 amendments established deadlines to implement the permit program for stormwater discharges associated with industrial activity, discharges from large municipal separate storm sewer systems serving a population of 250,000 or more, and discharges from medium municipal separate storm sewer systems serving a population of 100,000 or more but less than 250,000.

Permits for small systems, those serving a population of less than 100,000, were not required until October 1, 1992. EPA was required to issue by October 1, 1992, regulations establishing a comprehensive regulatory program for these smaller communities. This has not yet been done.

EPA and others are concerned about the scope and complexity of this pro-

gram for smaller communities. By some estimates, this program could include tens of thousands of currently unregulated municipalities and a million or more currently unregulated facilities. At this point, the October 1, 1992 deadline is unrealistic.

H.R. 6004 amends the act to extend the October 1, 1992, moratorium for 2 more years, to October 1, 1994. The bill also extends by 2 years the requirement that EPA issue regulations for these smaller community discharges. These deadline extensions will allow EPA and smaller communities the necessary time to comply with requirements for regulation of stormwater discharges.

Mr. Speaker, this bill is needed to prevent small communities from becoming violators of the law on October 1. It is a good bill. It is a reasonable bill, and I strongly urge its passage.

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

Mr. Speaker, I rise in support of H.R. 6004, a bill to amend the Clean Water Act to extend permit application and regulation deadlines for certain stormwater discharges.

This narrowly crafted bill provides regulatory relief to small and rural towns across America. At the same time, it ensures that EPA and the States will have greater opportunity to fashion reasonable, environmentally protective management strategies for stormwater.

First, let me thank and commend the leadership of the Public Works and Transportation Committee: Chairman BOB ROE, Water Resource Subcommittee Chairman HENRY NOWAK, and ranking minority member of the subcommittee, TOM PETRI. We certainly wouldn't be on the floor today debating this critically important bill if they had not been willing to offer their support and leadership.

I particularly want to thank both Chairman ROE and Chairman NOWAK who are retiring at the end of this session. Throughout their tenure on the Public Works and Transportation Committee, they have sought bipartisan, consensus solutions to public works and environmental protection problems. They have risen to the challenge to meet this Nation's infrastructure and economic development needs without compromising environmental quality. This bill, H.R. 6004, is entirely consistent with that approach and philosophy.

I introduced H.R. 6004 just last week. However, both the need for and momentum behind the bill have been in the making for some time now.

The 1987 amendments to the Clean Water Act set up an ambitious, phased approach to the regulation of stormwater. That approach involved numerous permit application and compliance deadlines, focusing first on dischargers of the greatest concern, such as certain industrial activities and medium- to large-sized municipalities. EPA was required to promulgate guidelines and regulations for industrial activities and cities of 250,000 or more within 2 years of enactment and for cities of 100,000 or more but less than 250,000 within 4 years of enactment.

The Stormwater Program, however, has faced a lot of scientific, legal, and institutional obstacles. EPA has missed its target deadlines and is only now beginning to implement stormwater regulations for industries and large cities. EPA and the States are simply not ready to move ahead on stormwater regulations for smaller cities—that is, cities under 100,000 population—and for countless other dischargers. Unfortunately, the statutory moratorium on stormwater permitting for small towns and other lower priority dischargers expires on October 1 of this year—literally only days away.

When this moratorium expires, small towns, nonindustrial concerns such as parking lot owners, and even private homeowners, could be in violation of the act unless Congress moves to extend the deadline. And that is precisely what my bill does—nothing more, nothing less.

H.R. 6004 amends section 402(p) of the act to extend the October 1, 1992 moratorium date for 2 years, to October 1, 1994. The bill also extends by 2 years the section 402(p)(6) requirement that EPA issue regulations for discharges not enumerated in section 402(p)(2).

Why do we need this legislation? Simply because Federal, State, and local officials, communities, certain industries, and others responsible for stormwater discharges need more time. Without an extension of the moratorium, EPA and State regulators, local officials and countless others could become literally swamped with paperwork, redtape, and litigation. The Association of State and Interstate Water Pollution Control Administrators and the National League of Cities recognize that an administrative nightmare and a frenzy of lawsuits could result if the moratorium is unchanged and a huge permitting program is hastily imposed.

That's why these groups and others support H.R. 6004. They recognize it buys a little time for developing a more rational and workable approach to a serious but complex environmental challenge.

Mr. Speaker, H.R. 6004 is a very narrowly crafted regulatory relief bill. It steers clear of the many controversial issues involved in EPA's stormwater regulatory program. I, for one, would have liked to address some of the other concerns raised by countless groups regarding permits, water quality standards, and differing requirements for municipal and industrial sources. Like many others, I would also have no problem with an extension longer than 2 years for low priority discharges so that we can push ahead with the more serious stormwater problems. EPA and others have said they need much more time to fashion a responsible program.

Mr. Speaker, an additional comment is warranted regarding the overall thrust of this bill and the entire Permitting, Management, and Control Program authorized under section 402(p). We are providing EPA and others more time to address certain so-called phase II discharges. At the same time, though, EPA and others must ensure an effective permitting program, to address so-called phase I discharges, that avoids unnecessary, duplicative, or costly sampling, testing, monitoring, reporting, and other requirements. For example, in cases where groups have undertaken sampling in order to comply with current deadlines, it would make sense that data already gathered could serve as the basis for future applications. Such an approach could help avoid redundant testing.

In the meantime, Congress cannot delay passing this critically important bill. We should pass it and send it to the other body immediately. The Nation's small towns, water quality officials, and all the impacted facilities and potentially regulated entities need this modest regulatory relief package now. The 2-year extension will also allow Congress time to fashion amendments to the stormwater program during debate on Clean Water Act reauthorization next year.

For all of these reasons, Mr. Speaker, I urge my colleagues to support H.R. 6004. It's a small but important step toward more realistic deadlines and more reasonable regulations.

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

Mr. Speaker, at this time I would like to acknowledge the great work of the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. I have worked with him and many others on this bill for 18 years and certainly his leadership concern and especially his staying the course, if you will, in all these bills has meant a great deal to all of us in committee and certainly in the House and in this country.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NOWAK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from New York [Mr. NOWAK] that the House suspend the rules and pass the bill, H.R. 6004.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NOWAK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 6004, the bill just passed.

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

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

The SPEAKER pro tempore. Without objection, and pursuant to clause 6(f) of rule X, the Chair makes the following appointments to fill vacancies occasioned by the death of Representative JONES of North Carolina on the committee of conference on the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes:

As an additional conferee from the Committee on Merchant Marine and Fisheries for consideration of titles II through VI, IX, XXX, and XXXIV of the House amendment to the Senate amendment, and titles II through VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment to the House amendment to the Senate amendment, and modification committed to conference: Mr. LIPINSKI.

As an additional conferee from the Committee on Merchant Marine and Fisheries for consideration of titles I, VII, XI, and XVII through XX of the House amendment to the Senate amendment, and titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment to the House amendment to the Senate amendment, and modifications committed to conference: Mr. HUGHES.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

JICARILLA APACHE TRIBE WATER RIGHTS SETTLEMENT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5122) relating to the settlement of the water rights claims of the Jicarilla Apache Tribe Water Rights Settlement Act as amended.

The Clerk read as follows:

H.R. 5122

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jicarilla Apache Tribe Water Rights Settlement Act".

SEC. 2. FINDINGS.

Congress hereby finds and declares that—

(1) the Jicarilla Apache Tribe has multiple claims against the State of New Mexico, the United States, and other parties, related to water rights for its reservation in northern New Mexico and based on the alleged infringement of those rights;

(2) Federal water resource projects have diverted water upstream from the Jicarilla Apache Indian Reservation and have impounded water downstream from the reservation, but no provision has been made for substantial water resource development to benefit the reservation;

(3) a full and final settlement of the water rights claims of the Jicarilla Apache Tribe will inure to the benefit of the Tribe, the State of New Mexico, and the United States;

(4) this Act, together with a Settlement Contract between the Jicarilla Apache Tribe and the United States, is intended to provide for the full, fair and final resolution of the water right claims of the Tribe, and to secure to the Tribe a perpetual water supply for use on its reservation;

(5) the Jicarilla Apache Tribe may use this water supply outside the boundaries of its reservation consistent with the terms of a Settlement Contract between the Tribe and the United States; and

(6) the Secretary, in accordance with the requirements of section 11(a) of the Act of June 13, 1962 (76 Stat. 96, 99; Public Law 87-483), has determined by hydrologic investigations that sufficient water to fulfill the Settlement Contract is reasonably likely to be available for use in the State of New Mexico under the allocations made in articles III and XIV of the Upper Colorado River Basin Compact and has transmitted such determination to Congress by letter dated February 2, 1989.

SEC. 3. PURPOSE.

It is the purpose of this Act to—

(1) approve, ratify and incorporate by reference the Settlement Contract; and

(2) to authorize the actions and appropriations necessary and appropriate for the United States to fulfill its obligations under such contract and this Act.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Settlement Contract" means a contract between the United States and the Jicarilla Apache Tribe setting forth the commitments, rights, and obligations of the United States and the Tribe in providing for the resolution of all water right claims of the Tribe.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Tribe" means the Jicarilla Apache Tribe of Indians organized under a revised constitution adopted December 15, 1968, pursuant to the Indian Reorganization Act (25 U.S.C. 476 et seq.) and duly recognized by the United States of America.

(4) The term "Navajo Reservoir" means the reservoir created by the impoundment of the San Juan River at the Navajo Dam as authorized by the Act of April 11, 1956 (70 Stat. 105).

(5) The term "San Juan-Chama Project" means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 105).

SEC. 5. SETTLEMENT CONTRACT APPROVAL.

(a) SETTLEMENT CONTRACT.—The Secretary, acting on behalf of the United States, and the President of the Tribe, acting pursuant to an authorization from the Jicarilla Apache Tribal Council, are authorized to enter into the Settlement Contract, but in no event shall such contract be limited by any term of years, or be canceled, terminated or rescinded by the action of any party, except by an Act of Congress hereafter enacted.

(b) APPROVAL OF SETTLEMENT CONTRACT.—The Congress approves, ratifies, and hereby incorporates by reference the Settlement Contract.

(c) AUTHORITY OF SECRETARY.—The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the intent of the Settlement Contract and this Act.

SEC. 6. WATER AVAILABLE UNDER THE CONTRACT.

(a) WATER AVAILABLE.—Water made available annually under the Settlement Contract approved by section 5 of this Act is in the following amounts under water rights held by the Secretary for the following projects or sources:

	Total diversion (acre-feet/year)	Total depletion (acre-feet/year)
Navajo Reservoir or Navajo River	33,500	25,500
San Juan-Chama Project	6,500	6,500
Total	40,000	32,000

(b) AMENDMENTS TO CONTRACT.—The Secretary may enter into amendments to the Settlement Contract which would in his judgment be in the interest of water conservation and in the spirit of this settlement of the claims of the Tribe, but the water depletions shall not exceed the amounts set forth in this section.

(c) RIGHTS OF THE TRIBE.—The Tribe will be entitled under the Settlement Contract to use any and all return flows attributable to uses of the water by the Tribe or its contractors, as long as the water depletions do not exceed the amounts set forth in this section.

SEC. 7. SUBCONTRACTS.

(a) AUTHORITY OF TRIBE.—When water made available under the Settlement Contract approved by section 5 of this Act is not being used by the Tribe, the Tribe may subcontract with third parties, subject to the approval of the Secretary in accordance with this section, to supply water for beneficial use outside of the reservation, subject to and not inconsistent with the same requirements and conditions of State law, any applicable Federal law, interstate compact, and international law as apply to the exercise of water rights held by non-Federal, non-Indian entities. Nothing in this Act shall be construed to establish, address, prejudice, or prevent any party from litigating, whether or to what extent any of the aforementioned laws do or do not permit, govern, or apply to

the use of the Tribe's water outside the State.

(b) MAXIMUM TERM.—The Tribe shall not permanently alienate any rights it has under the Settlement Contract. The maximum term of any water use subcontract, including all renewals, shall not exceed 99 years in duration.

(c) APPROVAL OF SECRETARY.—(1) The Secretary shall approve or disapprove any subcontracts submitted to him for approval within—

(A) 180 days after submission; or

(B) 60 days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or any other requirement of Federal law, whichever is later.

(2) Any party to a subcontract may enforce the provision of this subsection pursuant to section 1361 of title 28, United States Code.

(d) PREEMPTION.—The authorization provided for in subsection (a) and the approval authority of the Secretary provided for in subsection (c) shall not amend, construe, supersede, or preempt any Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters. The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water made available under the Settlement Contract.

(e) FORFEITURE.—The nonuse of the water supply secured herein by a subcontractor of the Tribe shall in no event result in a forfeiture, abandonment, relinquishment, or other loss of all or any part of the rights exercised by the Tribe under the Settlement Contract.

SEC. 8. TRUST FUND; AUTHORIZATION OF APPROPRIATIONS.

(a) ESTABLISHMENT OF TRUST FUND.—There is hereby established in the Treasury a fund to be known as the Jicarilla Apache Water Resources Development Trust Fund (hereafter in this section referred to as the "Fund").

(b) AUTHORIZATION.—There are authorized to be appropriated:

(1) $6,000,000 for deposit, in accordance with the following schedule, in the Fund, to be expended by the Tribe for any water resource development costs, including costs associated with this settlement:

(A) $2,000,000 shall be deposited in the first fiscal year which commences following the date of the enactment of this Act;

(B) $2,000,000 during the fiscal year next following the first fiscal year referred to in subparagraph (A); and

(C) $2,000,000 during the fiscal year next following the second fiscal year referred to in subparagraph (B); and

(2) such amounts as are necessary, for expenditures by the Secretary, to pay the Tribe's share of the operation, maintenance, and replacement costs for the San Juan-Chama Project, when the Secretary has waived the Tribe's obligation to pay such costs pursuant to subsection (c)(1) and section 10(f) of the Settlement Contract.

(c) NO PER CAPITA PAYMENTS.—No part of the principal of the fund, or of the income accruing to such fund, or the revenue from any water use subcontract, shall be distributed to any member of the Tribe on a per capita basis.

(d) WAIVERS.—Notwithstanding the provisions of the Act of August 4, 1939 (53 Stat. 1187), or any other provision of law:

(1) When the conditions specified in section 10(f) of the Settlement Contract are satisfied, the Secretary may waive all or part of the Tribe's share of the construction costs, and the operation, maintenance, and replacement costs for the Navajo Reservoir and the San Juan-Chama Project.

(2) When all or part of the Tribe's share of the construction costs for the San Juan-Chama Project are waived by the Secretary, that portion of those costs waived shall be nonreimbursable.

(3) The Tribe's share of the construction cost obligation for the San Juan-Chama Project, both principal and interest, due from 1972 to the execution of the Settlement Contract shall be nonreimbursable.

(e) DISMISSAL OF CLAIMS.—(1) Amounts authorized to be appropriated to the Fund under subsection (b)(1) may not be expended until the following conditions are met:

(A) The following actions brought by the Tribe against the United States have been dismissed:

(i) Jicarilla Apache Tribe against United States, et al., Civil No. 82-1327 JP (D.N.M.).

(ii) Claims 3 and 4 in Jicarilla Apache Tribe against United States, No. 112-77 (U.S. Claims Ct.).

(B) Partial final decrees which would quantify the Tribe's reserved water right claims have been entered in the following general stream adjudications:

(i) New Mexico against United States, et al., No. 75-184 (11th Jud. Dist., San Juan County, New Mexico), involving claims to the waters of the San Juan River and its tributaries.

(ii) New Mexico against Aragon, et al., Civil No. 79-41 SC (D.N.M.), involving claims to the Rio Chama and its tributaries.

(2) Within a reasonable time after the date of the enactment of this Act and the execution of the Settlement Contract pursuant to section 5(a), the United States, the Tribe, and the State of New Mexico shall file joint motions in the general stream adjudications specified in paragraph (1)(B) for the entry of partial final decrees, agreed to by the United States, the Tribe, and the State of New Mexico on July 9, 1992, to quantify the Tribe's reserved water right claims consistent with the Settlement Contract, subject to amendments.

(3) If the two partial final decrees specified in paragraph (1)(B) are not entered by December 31, 1996, the Fund shall be terminated, and amounts contributed to the Fund by the United States, shall be deposited in the general fund of the Treasury.

SEC. 9. ENVIRONMENTAL COMPLIANCE.

Execution of the Settlement Contract shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall comply with all aspects of the National Environmental Policy Act of 1969, the Endangered Species Act, and other applicable environmental laws and regulations in fulfilling the terms of the Settlement Contract.

SEC. 10. PROTECTION OF RIGHTS.

The tribal rights under the Settlement Contract approved by section 5 of this Act, and the water rights adjudicated by final decrees in general stream adjudications consistent with such contract, shall inure to the benefit of the Tribe, and the Tribe shall not be denied all or any part of such rights absent its consent unless such rights are explicitly abrogated by an Act of Congress hereafter enacted.

SEC. 11. DISCLAIMER.

(a) IN GENERAL.—Nothing in this Act shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act (45 Stat. 1057); the Boulder Canyon Project Adjustment Act (54 Stat. 774); the Colorado River Storage Project Act (70 Stat. 105); the Colorado River Basin Project Act (82 Stat. 885); the Act of June 13, 1962 (76 Stat. 96); the Colorado River Compact of 1922 made effective by Public Proclamation of the President of the United States on June 25, 1929 (46 Stat. 3000); the Upper Colorado River Basin Compact (63 Stat. 31); the Rio Grande Compact (53 Stat. 785); or the Treaty between the United States of America and the United Mexican States (59 Stat. 1219).

(b) RELATIVE TO OTHER TRIBES.—Nothing in the Settlement Contract or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims, or entitlements to water of the Navajo Nation, or any Indian tribe, pueblo, or community, other than the Jicarilla Apache Tribe.

□ 1700

The SPEAKER pro tempore (Mr. ABERCROMBIE). Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 5122, the Jicarilla Apache Tribe Water Rights Settlement Act is sponsored by Congressman RICHARDSON. This bill approves and ratifies the settlement agreement between the Jicarilla Apache Tribe, the United States, and the State of New Mexico. The settlement agreement provides for a total diversion of 40,000 acre-feet/year for the Jicarilla Apache Tribe. Of this amount, 33,500 acre-feet/year shall come from the Navajo Reservoir and the remainder shall come from the San Juan-Chama project.

This settlement will secure a perpetual supply of water for the tribe for its use on the reservation. The bill authorizes the Jicarilla Apache Tribe to sell, exchange, or lease water subject to the approval of the Secretary. Under the terms of the agreement the tribe may not permanently alienate any rights under the contract and the maximum term for any subcontract shall be 99 years.

The bill also provides that there are authorized to be appropriated $6 million for deposit in a water resources development trust fund for the Jicarilla Apache Tribe. These amounts shall be paid in three annual installments of $2 million.

The committee adopted several amendments to H.R. 5122 to address the concerns of the Department of Justice, the Lower Colorado River Basin States, and the Navajo Nation.

Mr. Speaker, this legislation would provide for the full, fair and final resolution of the water rights claims of the Jicarilla Apache Tribe. This legislation has the support of the administration, the Jicarilla Apache Tribe, and the State of New Mexico. I urge my colleagues to support this very important legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, H.R. 5122 provides congressional approval for an historic agreement that will settle the Indian water rights claims of the Jicarilla Apache Tribe—the first such negotiated settlement of Indian water rights in the State of New Mexico.

The Jicarilla Apache Reservation is located between the federally constructed San Juan-Chama trans-mountain diversion project and the Navajo Reservoir. While both projects significantly depleted water resources that the tribe had depended upon for ages, the Bureau of Reclamation excluded the tribe from participating in or benefiting from the projects—leaving the tribe no choice but to file suit against the United States.

The Jicarilla Tribe has for years engaged in negotiations with the Department of the Interior to settle the tribe's water-related claims. The terms and conditions of the negotiated settlement are embodied in a contract between the tribe and the United States, a contract fully supported by the New Mexico Interstate Stream Commission. I submit a copy of this contract to be inserted in the RECORD.

Enactment of H.R. 5122 will enable the tribe to enter into partial final decrees with the State of New Mexico, quantifying its water rights in the Rio Chama and San Juan River stream systems, and securing a perpetual water supply for the tribe.

In addition, this legislation establishes a water resource development trust fund that will be used by the tribe for water development costs and the costs associated with the implementation of the settlement.

It is important to note that during consideration of H.R. 5122 in the Committee on Interior, I offered amendments that addressed concerns raised by the administration, the Lower Colorado River Basin States, and the Navajo Nation. The bill was passed unanimously by the committee.

However, additional concerns were recently raised regarding section 9(a) of the bill, which would prohibit the use of water from the San Juan Chama project to offset depletions from other water projects in the San Juan River basin in order to comply with the Endangered Species Act. This section in no way exempts this legislation from compliance with the Endangered Species Act, but is intended to protect the San Juan Chama water allocation. In an effort to resolve the concerns, I have agreed to strike section 9(a) from the bill.

Mr. Speaker, a great number of people in New Mexico are watching the progress of this legislation closely. It not only sets a benchmark for the settlement of Indian water rights in our State, but across the country.

CONTRACT BETWEEN THE UNITED STATES AND THE JICARILLA APACHE TRIBE

PREAMBLE

This contract is entered into this —— day of ——, 1992, between the United States of America, acting through the Secretary of the Interior pursuant to the Jicarilla Apache Water Rights Settlement Act of ——, 1992, 105 Stat. ——, and the Act of June 13, 1962, 76 Stat. 96, and the Jicarilla Apache Tribe.

EXPLANATORY RECITALS

Witnesseth, That:

Whereas, the United States and the Jicarilla Apache Tribe have negotiated a resolution of all water right claims of the Tribe, including tribal reserved rights claims which are the subject of general stream adjudications in state and federal courts in New Mexico and which claims, if unresolved, impair water resource development by the Tribe and the State of New Mexico; and,

Whereas, the settlement of these claims will secure to the Tribe a perpetual water supply; and

Whereas, in order to preserve opportunities for Indian reservation development while at the same time allowing for other economical water resource development, it is the intent of this contract that the Jicarilla Apache Tribe, if it does not or cannot put the water supply secured to it under this contract to use, may exercise the right to market such water; and,

Whereas, the Jicarilla Apache Tribe has never been the beneficiary of any public water resource development, though federal projects have diverted water upstream from the Jicarilla Apache Indian Reservation and have impounded water downstream from the reservation; and,

Whereas, the federal government is undertaking no obligation to construct any additional water resource development facility to fulfill the terms and conditions of this contract; rather, the Tribe will be free to determine both the use to which the water will be applied and the need to construct any facilities; and,

Whereas, the Secretary of the Interior has determined in accordance with section 11 of the Act of June 13, 1962, 76 Stat. 96, 99–100, pursuant to the hydrologic determination submitted to Congress on February 2, 1989, that there is sufficient water reasonably likely to be available for use in the State of New Mexico to enable the United States to enter into this contract;

Now therefore, in consideration of mutual and dependent covenants and conditions contained herein, the parties agree to the following:

GENERAL DEFINITIONS

1. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof, the term:

(a) "Secretary" means the Secretary of the Department of the Interior or a designee.

(b) "Contracting Officer" means the representative of the Commissioner of Reclamation authorized to administer this contract.

(c) "Tribe" means the Jicarilla Apache Tribe, acting through its authorized representative.

(d) "Navajo Reservoir" means the reservoir created by the impoundment of the San Juan River at the Navajo Dam as authorized by the Act of Congress of April 11, 1956, 70 Stat. 105, as amended.

(e) "Navajo Reservoir Supply" means the water that the Secretary of the Interior is entitled to use under the rights acquired pursuant to New Mexico State Engineer file Nos. 2848, 2849, 2873, 2917 combined, and 3215. The Secretary's water rights for the San Juan-Chama Project and for the New Mexico portion of the Animas-LaPlata Project are not a part of the Navajo Reservoir Supply.

(f) "San Juan-Chama Project" means the Project authorized by Section 8 of the Act of June 13, 1962, 76 Stat. 96, and the Act of April 11, 1956, 70 Stat. 105, as amended.

(g) "Navajo River" means the river of that name which flows across the Jicarilla Apache Indian Reservation in New Mexico, and all tributaries thereto.

(h) Reservation" means the Jicarilla Apache Indian Reservation, as recognized by the Secretary of the Interior on the date of this contract.

CONDITIONS

2. (a) Except for the commitments made in section 3(a), this contract will give rise to rights and obligations on the part of the Jicarilla Apache Tribe and the United States only after the following events have occurred:

(i) the lawsuit styled *Jicarilla Apache Tribe v. United States*, et al., Civ. No. 82–1327 JP (U.S. Dist. Ct., D.N.M.), has been dismissed with prejudice pursuant to a stipulation of the parties;

(ii) Claims 3 and 4 of the lawsuit styled *Jicarilla Apache Tribe v. United States*, Cl.Ct. No. 112–77, have been dismissed with prejudice pursuant to a stipulation of the parties;

(iii) this contract is incorporated by reference in, and becomes a part of, a partial final decree entered by the District Court of San Juan County, New Mexico, in the general stream adjudication of the San Juan River stream system, *New Mexico v. United States*, No. 75–184, which decree adjudicates all the water rights fo the Jicarilla Apache Tribe in the following manner:

(A) the decree shall provide that the reserved water rights of the Tribe, when added to the Tribe's reserved water rights adjudicated in the Rio Chama stream system, authorize diversion not to exceed 40,000 acre-feet per year from the two stream systems, in addition to the amounts referred to in subsections 2(a)(iii)(C) and 2(a)(iv)(B); and

(B) the decree shall provide that those reserved water rights referred to in subsection 2(a)(iii)(A) shall be subordinated to the rights of the Jicarilla Apache Tribe under this contract; and

(C) the decree shall adjudicate the water rights the Tribe has under state law and any water rights the Tribe has to groundwater, ponds and lakes which are within the Reservation which are recognized in addition to the rights which the Tribe acquires under this contract; provided, that nothing herein shall be construed to limit the right of the Tribe to withdraw and use groundwater which withdrawal and use does not deplete the San Juan River stream system;

(iv) this contract is incorporated by reference in and becomes a part of a partial final decree entered by the U.S. District

Court of the District of New Mexico in the general stream adjudication of the Rio Chama stream system, *New Mexico v. Aragon*, Civ. No. 7941 SC, which decree adjudicates all the water rights of the Jicarilla Apache Tribe in the following manner:

(A) the decree shall provide that the reserved water rights of the Tribe shall be subordinated to the rights of the Jicarilla Apache Tribe under this contract; and

(B) the decree shall adjudicate the water rights which the Tribe has under state law and any water rights the Tribe has to groundwater, ponds or lakes which are within the Reservation, which are recognized in addition to the rights which the Tribe acquires under this contract; Provided, that nothing herein shall be construed to limit the right of the Tribe to withdraw and use groundwater/which withdrawal and use does not deplete the Rio Chama stream system.

(b) A "partial final decree . . . which . . . adjudicates all the water rights of the Jicarilla Apache Tribe," within the meaning of subsection (a)(iii) of this section, means a state district court decree which, after a stipulation of the United States, the Jicarilla Apache Tribe, the State of New Mexico, and BHP-Utah International, Inc., and after the hearing of any objections or opposition, adjudicates all the water rights of the Tribe in the stream system consistent with the terms and conditions of this contract. Within the meaning of subsection (a)(iv), such decree means a federal district court decree which, after a stipulation of the United States, the Jicarilla Apache Tribe, and the State of New Mexico, and after the hearing of any objections or opposition, adjudicates all the water rights of the Tribe in the stream system consistent with the terms and conditions of this contract. The possibility that future objections to these decrees may be raised in the context of the entire general stream adjudication of all water rights in the stream system does not render these partial final decrees anything other than "final" for purposes for purposes of this contract.

PRELIMINARY UNDERSTANDINGS

3. (a) Both the United States and the Jicarilla Apache Tribe will in good faith take all steps necessary to assure the fulfillment of the conditions of section 2.

(b) It is understood between the parties that all stipulated dismissals and partial final decrees referred to in section 2(a) constitute mutual consideration for the purchase and delivery of water under this contract, and that neither party will have any obligation under this contract to purchase water from or deliver water to the other party until all the conditions of section 2 have been met.

WATER DELIVERY PROVISIONS

4. (a) The United States agrees to deliver, or make available for delivery, to the Tribe up to a total of 40,000 acre-feet of water per year from the Navajo Reservoir Supply, including any diversion from the Navajo River on the Reservation, and from the San Juan-Chama Project, in accordance with the provisions of this contract. To the extent that delivery of water is made through federal water resource facilities, the Tribe will reimburse for this service in accordance with the provisions of section 10 of this contract.

(b) Of the water to be made available under subsection 4(a), the Tribe may divert up to 33,500 acre-feet per year from the Navajo River on the Reservation. The Tribe must notify the Contracting Officer at least 30 days prior to any such diversion of the amount and timing of the diversion. Because water diverted from the Navajo River on the Reservation will not have been stored or diverted through federal water resource facilities, no cost shall be charged to the Tribe by the United States for the diversion of that water, notwithstanding the provisions of section 10 of this contract.

(c) Of the water to be made available under subsection 4(a), the Tribe may divert and the United States agrees to deliver up to 33,500 acre-feet per year from the Navajo Reservoir supply; provided, that the total diversions under this contract from the Navajo Reservoir Supply do not exceed 33,500 acre-feet of water per year.

(d) Of the water to be made available under subsection 4(a), the United States agrees to deliver up to 6,500 acre-feet per year from the San Juan-Chama Project. The point of delivery for San Juan-Chama water shall be the existing outlet works at Heron Reservoir unless otherwise agreed by the Contracting Officer and the Tribe.

(e) Separate contracts for additional water, whether for temporary or permanent use, as available, may be negotiated by the Tribe with the Bureau of Reclamation in the future, but they do not constitute any part of the consideration for this contract.

(f) The water delivery rights recognized by this contract shall be perpetual, and the Tribe shall have the right to subcontract with others for use of said water supply as provided in section 11.

(g) The Tribe shall have no holdover storage rights in the Navajo or Heron Reservoirs from year to year. Any water subject to delivery hereunder not called for by the end of each calendar year shall become integrated with the water supply for all purposes of the reservoirs at that time.

(h) Nothing in this section is intended to impose on the United States any obligation to maintain the Navajo Reservoir and San Juan-Chama Project beyond their useful lives or to take extraordinary measures to keep these facilities operating.

(i) The United States agrees that it will make provision for the buy-out of private water rights, effective prior to the year 2040, aggregating 11,000 acre-feet depletion of the San Juan River stream system in New Mexico with the State's allocation of Upper Colorado River Basin water, as reflected on page 23 of the hydrologic determination sent to Congress on February 2, 1989, or make other satisfactory provision to reconcile those commitments with New Mexico's allocation. Either the Tribe or the State of New Mexico may specifically enforce this contractual obligation provided that this obligation may not be enforced prior to the year 2000. The Tribe's right to delivery of water prior to the year 2040 under the terms of this section dependent upon the United States' fulfillment of this obligation.

TRANSPORTATION LOSSES

5. Transportation of water from the reservoir or other points of delivery shall be the sole responsibility of the Tribe, so that no conveyance losses, including channel losses, shall be borne by the United States.

CONSTRUCTION AND OPERATION OF FACILITIES

6. Nothing herein shall be construed to obligate the United States to construct, install, operate, or maintain pumps, pipelines, storage tanks, distribution lines, or other facilities required to take, measure, convey, or distribute water for use beyond agreed upon points of delivery.

RESPONSIBILITY FOR DISTRIBUTION

7. Upon delivery the Tribe shall be responsible for the control, carriage, handling, distribution, measurement, and use of all water made available under this contract, and shall hold the United States, its officers, agents, employees, and successors or assigns, harmless from every claim for damages to persons or property, direct or indirect, and of whatever nature arising out of or in any manner connected with the control, carriage, handling, distribution or use of such water beyond the point of delivery.

WATER SUPPLY

8. (a) Notwithstanding any other provisions of this contract, in times of shortage the Tribe will share in the available water supply in the manner set forth in Section 11(a) of the Act of June 13, 1962, 76 Stat. 96, 99–100.

(b) With respect to water made available under the terms of this contract from the San Juan-Chama Project, during periods when the Contracting Officer finds that the actual available water supply is more or less than the estimated firm yield of the Project, the Tribe shall share in the available water supply in the ratio that its contract amount bears to the firm yield.

(c) On account of drought or other causes outside the control of the United States, there may occur at times during any year a shortage in the quantity of water available for use by the Tribe pursuant to this contract. In no event shall any liability accrue against the United States, or any of its officers, agents or employees, for any damage, direct or indirect, arising out of any such shortage, and the payments due the United States provided for herein shall not be reduced because of such shortage.

UNCONTROLLABLE FORCES

9. (a) Neither party shall be considered to be in default in respect to any obligation hereunder if prevented from fulfilling such obligation by reason of uncontrollable forces. The term uncontrollable forces shall mean, for the purposes of this contract, any cause beyond the control of the party affected, including but not limited to, drought, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove expeditiously such inability.

(b) If and only if the United States is unable to deliver all or part of the San Juan-Chama Project water to the Tribe pursuant to section 4(d) as a result of the physical failure of the project, the Tribe may take an equivalent amount of water out of the Navajo Reservoir supply, notwithstanding the provisions of section 4(c).

COST PROVISIONS

10. (a) Charges for water from the Navajo Reservoir Supply will be as follows:

(i) Construction costs shall be charged at the annual amortization rate of $2.60 per acre-foot ending at the year 2012 for water delivered for irrigation. Construction charges for water delivered for irrigation of Indian land shall be allocated and payment deferred under the provisions of the Leavitt Act, 47 Stat. 564, as authorized in section 4(d) of the Colorado River Storage Project Act.

(ii) Construction costs shall be charged to the Tribe at an annual amortization rate of $2.60 per acre-foot ending at the year 2012 for Navajo Reservoir Supply water delivered for municipal and industrial uses.

(iii) The Tribe shall pay the United States, or its designee if some organization other than the United States is operating the project, its proportionate share of the annual operation, maintenance and replacement costs (OM&R) assignable to the amount of water made available from the Navajo Reservoir Supply to the Tribe through this contract.

(iv) The Contracting Officer or a designee will bill the Tribe for construction and OM&R costs for Navajo Reservoir on or before September 1 of the year proceeding the year of use. The Tribe shall pay all accrued costs within 30 days after receipt of the bill.

(b) The Tribe's construction cost obligation for the San Juan-Chama Project is estimated to be $1,056,250. Payment for the principal and interest due from 1972 through date of execution of this contract shall be treated as non-reimbursable. Construction costs shall be charged at an annual amortization rate of $3.25 per acre-foot ending at the year 2021 for water delivered for irrigation. Construction charges for water delivered for irrigation on Indian land shall be allocated and payment deferred under the provisions of the Leavitt Act, 47 Stat. 564, as authorized in section 4(d) of the Colorado River Storage Project Act.

(i) Construction costs for irrigation water converted and designated as municipal and industrial water shall be charged to the Tribe at an annual amortization rate of $29.40 per acre-foot ending at the year 2021, including the project interest rate of 3.046% on the unpaid balance. Payments made by the Tribe for municipal and industrial water pursuant to this subsection shall be applied according to Reclamation law. This amortization rate for the San Juan-Chama Project, as provided herein, shall be paid by the Tribe until the actual costs have been determined in the final cost allocation. Upon completion of the final cost allocation, the amortization rate payable by the Tribe shall be adjusted to provide payment on the basis of actual costs until its share of the project is paid off.

(ii) The Contracting Officer or a designee will bill the Tribe for construction costs associated with the San Juan-Chama Project on or before September 1 of the year preceding the year of use. The Tribe shall pay all accrued costs within 30 days after receipt of the bill.

(iii) The Tribe shall pay the United States, or its designee if some organization other than the United States is operating the project, its proportionate share of the annual operation, maintenance and replacement costs (OM&R) assignable to the amount of water made available from the San Juan-Chama Project to the Tribe through this contract.

(iv) OM&R costs for the San Juan-Chama Project shall be paid on the basis of annual estimates made by the Secretary. A billing from the Secretary will be sent to the Tribe on or before May 1 for the next year's annual reimbursable OM&R costs assessed to the Tribe. The Tribe shall advance its share of the OM&R costs for each calendar year in quarterly payments which will be due on December 31 of the same calendar year as the billing, and on March 10, May 10, and August 30 of the year of applicability. The first such billing will be issued immediately following execution of this contract. In the event this first notice shall be for costs of service of less than a full year, such costs shall be prorated for the period covered. Each billing shall show an itemization of the estimated reimbursable OM&R costs of the San Juan-Chama Project.

(iv) The Tribe shall pay its rata share of the annual OM&R costs of the San Juan-Chama Project, based upon the ratio of the number of acre-feet allocated to the Tribe to the total number of acre-feet under contract by all contractors for San Juan-Chama Project water.

(c) In the event either the OM&R cost estimate falls short of the actual costs in any period, or whenever it is anticipated by the Contracting Officer that a deficit will occur during the year, supplemental notices may be issued by the Contracting Officer requesting additional funds. OM&R funds not spent during one calendar year will be carried over for use during the next calendar year with funds required for that year being reduced accordingly. An itemized statement of actual costs incurred during each year shall be furnished to the Tribe.

(d) The annual amortization rates and annual OM&R assessments specified in section 10(a) and 10(b) above shall be charged to the Tribe for all water subcontracted to third parties.

(e) Billings from the Contracting Officer and payments by the Tribe of the construction and OM&R costs outlined under this section shall be made on the basis of section 10(a) and 10(b) as may be modified by section 10(f). For project operation purposes, the Tribe will provide an annual notice to the Contracting Officer listing the amount of water estimated to be used by the Tribe, the estimated period and point of diversion for each intended purpose and a listing of all executed subcontracts with third parties, including those subcontracts anticipated to be executed during the year of applicability. The Tribe shall send this notice on or before February 1 of the year preceding the year of use described in the notice. Upon receipt of such notice, the Contracting Officer will bill the Tribe for payment of costs as prescribed herein. Billing adjustments will be made to correct for differences in the estimated and actual use of water during the preceding year.

(f) All of part of the annual construction and OM&R costs may be waived on a project-specific basis if the Tribe demonstrates to the satisfaction of the Secretary that, practically speaking, no market exists for all or part of the water contracted from either Navajo Reservoir Supply or the San Juan-Chama Project. Such demonstration shall be in written form and shall accompany the February 1 notice provided for in section 10(e). With respect to the San Juan-Chama Project, those OM&R costs waived on an annual basis will be paid by the Secretary, and those construction costs waived annually will be treated as non-reimbursable.

SUBCONTRACTING

11. (a) When water made available under this contract is not being used by the Tribe, the Tribe may subcontract with third parties, subject to the approval of the Secretary in accordance with this section, to supply water for beneficial use outside of the Reservation, subject to and not inconsistent with the same requirements and conditions of State law, and any applicable Federal law, interstate compact, and international law as apply to the exercise of water rights held by non-federal, non-Indian entities; provided, however, that nothing in this contract shall be construed to establish, address, or prejudice whether, or to prevent any party from litigating whether, or to the extent to which, any of the aforementioned laws do or do not permit, govern, or apply to the use of the Tribe's water outside the State.

(b) Subcontracts made the Tribe with third parties shall be subject to the provisions of this contract and must include terms of use, purchase, measurement, operations, and default. A copy of each proposed subcontract shall be filed with the Contracting Officer and the New Mexico Interstate Stream Commission prior to being executed by the Tribe, and two copies of each executed subcontract shall be filed with the Contracting Officer and one copy with the New Mexico Interstate Stream Commission.

(c) Prior to approving any tribal subcontract, the Secretary shall comply with section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. §4332(2)(C).

(d) The Secretary shall approve any subcontract submitted by the Tribe if he determines:

(i) that the diversion and use of water under the subcontract would comply with applicable state law, including all applicable permitting and reporting requirements of the New Mexico State Engineer;

(ii) that the sum of the term of the subcontract plus all renewals is no more than 99 years;

(iii) that the use of water under the subcontract is not inconsistent with the provisions of the Endangered Species Act or other provisions of Federal law designed to protect the environment;

(iv) that the subcontract is sufficiently specific as to the amount of water and points of diversion to enable the Contracting Officer to account for the water as it is diverted; or, in the alternative, that the subcontract reserves the Contracting Officer's right to review and approve future diversions sought under the subcontract, such review and approval to be consistent with this contract;

(v) that delivery obligations under the subcontract are not inconsistent with other obligations of the Secretary to deliver water under preexisting contracts; and

(vi) that the subcontract is in the best interests of the Tribe.

(e) The Tribe agrees to include the following equal opportunity language in any subcontract for use of water off the Reservation:

(i) The subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(ii) The subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(iii) The Tribe will take such action with respect to any subcontractor as the Contracting Officer may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided however, if the Tribe becomes involved in, or is threatened with, litigation with a subcontractor as a result of such direction, the Tribe may request the United States to enter into such litigation to protect the interest of the United States.

Nothing in paragraphs (i) through (iii), above, shall be read as prohibiting the Tribe from requiring that subcontractors give pref-

erential employment to members of the Jicarilla Apache Tribe.

FISH AND WILDLIFE COORDINATION

12. (a) The Tribe, the Fish and Wildlife Service, the Bureau of Reclamation and the Bureau of Indian Affairs agree to cooperate and coordinate in the planning and construction of projects, diversions and changes in water management associated with the water made available to the Tribe under the terms of this agreement as required by federal law, including, but not limited to, the Bald and Golden Eagle Protection Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the Clean Water Act, and the National Environmental Policy Act.

(b) The Tribe and the Department of the Interior agree to work with the State of New Mexico and affected water users to assure that Navajo Dam and Reservoir and San Juan-Chama Project are operated in compliance with applicable laws while meeting water delivery obligations, so as to provide, to the maximum extent possible, quantities and timing of deliveries to provide for downstream flows necessary to maintain and protect existing fisheries and other resources, with particular emphasis on endangered species.

DOWNSTREAM FISHERY RESOURCE

13. Operation of the Navajo Reservoir has created a substantial stream fishery resource in the reach of the San Juan River below Navajo Dam. The Contracting Officer and the Tribe, subject to such water rights as have been heretofore and may be hereinafter granted or adjudicated upon the San Juan River or the tributaries thereof, agree to encourage water deliveries at points of diversion that would be compatible with maintaining the downstream fishery. The Tribe agrees to work closely with the United States Fish and Wildlife Service in all municipal and industrial water marketing and deliveries to protect this fishery resource insofar as practicable.

AIR AND WATER POLLUTION CONTROL

14. The Tribe agrees that it will comply fully with federal air and water pollution control laws, now or hereafter in force. Also, the Tribe agrees that any subcontract it may enter into for the furnishing of water pursuant to this contract will contain similar air and water pollution control provisions including state and local requirements, where applicable. The Tribe further agrees that any such subcontract it may enter into will require that its designs and plans for air and water pollution control facilities or equipment which are necessary parts of any design, facility, plant, or process which utilizes water delivered from the Navajo Reservoir Supply or San Juan-Chama Project will be submitted to the Secretary for his review and written comments prior to contracting for said facilities, their installation or major modification thereof.

BOOKS, ACCOUNTS AND RECORDS

15. (a) The Tribe shall establish and maintain accounts and other books and records such as are necessary to enable the Secretary to operate the subject facilities. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as he may require. Subject to applicable Federal laws and regulations, each party shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

(b) Subsection (a) of this section shall not apply to water diverted directly for the Navajo River for use on the Jicarilla Apache Reservation. For such water the Tribe is required only to notify the Contracting Officer, at least 30 days prior to any such diversion, of reasonable estimates of the amount and timing of the diversion, and to provide the Contracting Officer, within 30 days after diversion of the water, with proof of actual amount of water diverted.

COMPLIANCE WITH RECLAMATION LAWS

16. The parties agree that the delivery of irrigation water or the use of federal facilities pursuant to this contract is governed by applicable Reclamation law, except that this delivery or use is not subject to the Reclamation Reform Act of 1982, as amended.

RULES, REGULATIONS, AND DETERMINATIONS

17. (a) The United States or its assigns shall take all prudent and ordinary measures to operate and maintain all existing facilities necessary to this contract, but nothing in this section shall be construed to require the United States to operate such facilities beyond the useful life of the existing facilities. These facilities will be operated for multiple benefits of the project in accordance with project authorization and contracts, including this contract. The contracting Officer, in consultation with the Tribe, shall have the right to make determinations necessary to administer this contract that are consistent with the express and implicit conditions of this contract, the laws of the United States and rules and regulations promulgated by the Secretary of the Interior.

(b) Where the terms of this contract provide for action to be based upon the opinion or determination of either party to this contract, whether or not stated to be conclusive, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations.

GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

18. (a) The obligation of the Tribe to pay the United States as provided in this contract is a general obligation of the Tribe notwithstanding he manner in which the obligation may be distributed among the Tribe's water users and notwithstanding the default of individual water users in their obligations to the Tribe.

(b) The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this contract. The Tribe shall have no right to the use of water supplied from any project facilities during any period in which the Tribe may be in arrears in the payment of any operation, maintenance, and replacement charges due the United States or in arrears for more than 12 months in the payment of any construction and interest installments due the United States.

(c) The Tribe shall pay penalty charges on delinquent installments or payments. When payment is not received by the due date, the Tribe shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Tribe shall pay an administrative charge to cover additional costs of billings and processing the delinquent payment. When a payment is delinquent 90 days or more, the Tribe shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the Tribe shall pay any fees incurred for debt collection services associated with the delinquent payment.

(d) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments or the interest rate of 0.5 percent per month prescribed by section 6 of the Reclamation Project Act of 1939, 53 Stat. 1191. The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

(e) When a partial payment for a delinquent account is received, the amount received shall be applied first to the penalty, second to the administrative charges, third to the accrued interest and finally to the overdue payment.

WATER QUALITY

19. The operation and maintenance of project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable, as determined by the United States. The United States does not warrant the quality of water and is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water.

WATER CONSERVATION

20. Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the Tribe shall develop an affective water conservation program which shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. At subsequent three-year intervals, the Tribe shall submit a report on the results of the program to the Contracting Officer for review. Based on the conclusions of the review, the Contracting Officer and the Tribe shall consult and agree to continue or to revise the existing water conservation program. This paragraph shall be included in all subcontracts, and such measures shall be required of all water purchasers.

CONTINGENT UPON APPROPRIATIONS OR ALLOTMENT OF FUNDS

21. The expenditure of any money or the performance of any obligation by the United States under this contract shall be contingent upon appropriations or allotments of funds. Absence of appropriation or allotment of funds shall not relieve the Tribe from any obligations under this contract. No liability shall accrue against the United States in case funds are not appropriated or allotted.

NOTICES

22. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given on behalf of the Tribe when mailed, postage prepaid, or delivered to the Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84111, and on behalf of the United States when mailed, postage prepaid, or delivered to the Tribe. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this section for other notices.

OFFICIALS NOT TO BENEFIT

23. No Member of or Delegate to Congress or Resident Commissioner or official of the Tribe shall benefit from this contract or any subcontract other than as a water user or landowner in the same manner as other water users or landowners.

SAVINGS CLAUSES

24. (a) Prior to the fulfillment of the conditions in section 2, nothing in this contract

shall be construed as an admission, or be used by any party as evidence, that the Tribe is or is not legally entitled to reserved water rights in the San Juan or the Rio Chama stream systems.

(b) Nothing contained in this contract shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act, 45 Stat. 1057; the Boulder Canyon Project Adjustment Act, 54 Stat. 774; the Colorado River Compact, proclaimed on June 25, 1929, 46 Stat. 3000; the Upper Colorado River Basin Compact, 63 Stat. 31; the Rio Grande Compact of 1938, 53 Stat. 785; the 1944 Treaty with the United Mexican States, Treaty Series 994, 59 Stat. 1219; the Act of June 13, 1962, 76 Stat. 96; the Colorado River Basin Project Act, 82 Stat. 885; or the Colorado River Storage Project Act, 70 Stat. 105.

(c) The use of water, including that diverted from the Colorado River system to the Rio Grande Basin, through works constructed under the authority of the Act of June 13, 1962, 76 Stat. 96, shall be subject to and controlled by the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total quantity of water to the use of which the State of New Mexico is entitled and limited under said compacts, statutes, and treaty.

TERMINATION

25. This contract may not be canceled, terminated, or rescinded by either party, except by act of Congress.

In witness whereof, the parties hereto executed this contract this day and year first above written.

———,
Secretary of the Interior.

———,
President, Jicarilla Apache Tribe.

Mr. Speaker, I want to thank the gentleman from California [Mr. MILLER] for his outstanding leadership, and his ability and his outstanding work on this legislation.

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

Mr. Speaker, I thank the gentleman from New Mexico [Mr. RICHARDSON] for his work on behalf of this settlement. Obviously, without his stewardship of this issue, it would not have come to fruition so that we could consider it in the House today. My staff informs me that he has been most helpful on all of these matters, and he has worked diligently on this, and I do want to thank him.

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

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

Mr. Speaker, I rise in support of H.R. 5122, the Jicarilla Apache Tribe Water Rights Settlement Act. H.R. 5122 implements a fair and equitable settlement agreement between the Jicarilla Apache Tribe and the Interior Department quantifying the tribe's water rights from the Rio Chama and San Juan River.

Although the administration, the States of California and Arizona, and the Navajo Tribe all expressed some reservations with the bill as introduced, I am pleased to note that after several weeks of productive meetings between the parties, these concerns have been satisfactorily resolved.

Mr. Speaker, I urge my colleagues to support passage of this legislation.

Mr. RHODES. Mr. Speaker, I appreciate and welcome the Interior Committee report views regarding the intent of the negotiated compromise language included in H.R. 5122, as amended, pertaining to the water marketing provisions of the legislation and the settlement agreement.

Representatives of the Colorado River Basin States, the 10 Colorado River tribes, and the Department of the Interior met in Albuquerque, NM, on September 2, 1992, to discuss this issue relative to the concerns some of us raised. Together, they developed the substitute water marketing language that was adopted during the committee markup of H.R. 5122 on September 23, 1992. I very much appreciate the work all the interests invested in this issue to respond to the difficulties we had with the original bill language.

The Arizona Department of Water Resources was involved in those discussions and has written to me to express acceptance of the compromise embodied in the amendment adopted by the committee. As I said during the committee markup of the bill, I also accepted the substitute language. The intent of this language is to neither enhance nor diminish the respective legal positions of the tribes and the States relative to the marketing of water into the Lower Colorado River Basin.

Having said that, from a personal perspective I remain uncomfortable with this water marketing proposal. Notwithstanding the substantial stipulations and provisos in the bill text, and the clear, detailed explanatory language in the committee report, the settlement agreement still contemplates the potential future disposal into the Lower Basin, of Colorado River water allocated by compact and law to the upper basin States. Such action presents an issue and point of law that is in dispute regarding the law of the river.

Absent negotiated agreements among the seven basin States and tribal governments regarding out-of-basin water marketing and related matters, this settlement agreement appears to me to invite eventual law of the river litigation of a potentially massive nature, at the expense of those entities which are not a party to this settlement.

My hope is every effort will be made to address and resolve these crucial, intricate, emotional, and controversial Colorado River water supply issues within the context of good-faith discussions and negotiations among all Colorado River tribal governments, all seven Colorado River Basin States, and the Federal Government, in lieu of unilateral actions and litigation.

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

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 5122, as amended.

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

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 6:01 p.m. on Monday, September 28, 1992 and said to contain the enrolled bill H.R. 5318, An Act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; and the President's veto message thereon.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, U.S. House of Representatives.

UNITED STATES-CHINA ACT OF 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-398)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 5318, the "United States-China Act of 1992," which places additional conditions on renewal of China's most-favored-nation (MFN) trade status.

I share completely the goals of this legislation: to see greater Chinese adherence to international standards of human rights, free and fair trade practices, and international nonproliferation norms. However, adding broad conditions to China's MFN renewal would not lead to faster progress in advancing our goals. To those who advocate this approach, let me set the record straight.

Our policy of comprehensive engagement lets the Chinese know in no uncertain terms that "business as usual" is not possible until they take steps to resolve our differences. Through multiple, focussed measures, we are eliciting the results we seek.

This year China joined global efforts to control the spread of nuclear weap-

ons and ballistic missiles by declaring adherence to the Missile Technology Control Regime's (MTCR) guidelines and parameters and signing the Nuclear Proliferation Treaty (NPT). Chinese behavior remains MTCR-consistent, and we have begun a dialogue with the Chinese on their responsibilities under the NPT. We continue to monitor vigilantly China's weapons export practices. We have used the sanction authorities available successfully and remain prepared to do so again if necessary.

We have made progress on the resolution of outstanding trade issues with our agreements to protect Intellectual Property Rights and to ban prison labor exports. I will not allow, however, market access to remain a one-sided benefit in China's favor while our bilateral trade deficit grows. If China fails to reduce trade barriers, we are prepared to take trade action under the statutory guidelines of section 301 of the Trade Act of 1974.

The limited steps China has taken on human rights are inadequate. But our human rights dialogue gives us an avenue to express our views directly to China's leaders. Significant improvement in China's human rights situation, including freedom for all those imprisoned solely for the peaceful expression of their beliefs, remains our objective. It is easy to be discouraged by the pace of progress in this area. But it would be a serious mistake to let our frustration lead us to gamble with policies that would undermine our goals.

Withdrawing MFN or conditioning it, such that it will be withdrawn at a later date, will not promote these goals. H.R. 5318 imposes unworkable constraints on our bilateral trade. Among the casualties of this bill would be the dynamic, market-oriented regions of southern China and Hong Kong, as well as those Chinese who support reform and rely on outside contact for support.

The impact of this bill would extend beyond the state enterprise system, harming independent industrial and agricultural entities that have sprung up in China since the advent of economic reform and its opening to the outside. These family-owned and operated entities are interlinked in the manufacturing process with large, state-controlled factories and marketing agencies. They would not be shielded from the effects of this bill.

Americans too would be affected. This year our exports to China will climb to about $8 billion. China's retaliation for the loss of MFN would cost us this growing market and thousands of American jobs. We would cede our market share to our foreign competitors who impose no restrictions on their trade with China, at a time when China is taking market-opening measures that our trade negotiators fought to obtain.

Our policy seeks to address issues of vital concern to us and looks to the future of our relations with a country that is home to almost one-quarter of the human race. MFN is a means to bring our influence to bear on China. Comprehensive engagement is the process we use to transform this influence into positive change. The relationship between these two key elements of our China policy is a powerful one, and the absence of one element diminishes the potency of the other. We continue to advance broad U.S. objectives without imposing economic hardship on Americans because both elements of our policy are in place.

Engagement through our democratic, economic, and educational institutions instead of confrontation offers the best hope for reform in China. MFN is the foundation we need to engage the Chinese. H.R. 5318 places conditions on MFN renewal for China that will jeopardize this policy and includes a requirement that infringes upon the President's exclusive authority to undertake diplomatic negotiations on behalf of the United States.

In order to protect the economic and foreign policy interests of the United States, I am returning H.R. 5318 to the House of Representatives without my approval.

GEORGE BUSH.

THE WHITE HOUSE, *September 28, 1992.*

1710

The SPEAKER pro tempore (Mr. ABERCROMBIE). The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 5318, be postponed until Wednesday, September 30, 1992, and that the veto message be the first unfinished business.

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

There was no objection.

JENA BAND OF CHOCTAWS OF LOUISIANA RESTORATION ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3095) to restore and clarify the Federal relationship with the Jena Band of Choctaws of Louisiana.

The Clerk read as follows:

S. 3095

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jena Band of Choctaws of Louisiana Restoration Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) In 1902, after presenting testimony before the Dawes Commission, each family of the Jena Choctaw Tribe was identified as full-blooded Mississippi Choctaw, an Indian tribe recognized by the Federal Government and entitled to land and services from the Bureau of Indian Affairs.

(2) As recently as 1968–1972, members of the Jena Band of Choctaws of Louisiana have received Federal benefits because of their status as Indians.

(3) Actions by the Bureau of Indian Affairs, including the provision of services specifically to the Tribe during the 1930's, acknowledgement of the Tribe's eligibility under the Indian Reorganization Act, and the offer to the Tribe of tribal lands in Mississippi, established Federal recognition of the Jena Band of Choctaws of Louisiana as a separate and distinct Indian tribe.

(4) The Tribe continues to exist as a separate and distinct tribe, is recognized by the State of Louisiana as a separate and distinct Indian tribe, has received funding from the Department of Housing and Urban Development for the construction of a Tribal Center, and has received funding from the Administration for Native Americans for administrative training for tribal staff, preparation of a 5-year economic development plan, development of the tribal constitution, and other tribal projects.

(5) The Tribe has maintained a continuous line of leadership and now consists of approximately 152 members of which nearly 60 percent possess one-half or more Choctaw blood quantum.

(6) Members of the Tribe would be living on trust land and receiving the full range of services to which all federally recognized Indians are entitled if the Bureau of Indian Affairs had fulfilled commitments made to the Tribe during the 1930's.

(7) Denial of full Federal benefits and services to which the Jena Band is entitled as a federally recognized Indian tribe has exacerbated the many serious problems facing the Tribe including poverty, alcohol and substance abuse, poor health, inadequate education and substandard living conditions.

(8) Restoration of Federal recognition of the Tribe is supported by all the federally recognized tribes in Louisiana and by the Mississippi Choctaw.

(9) It is appropriate for Congress to restore recognition of the Tribe since the Bureau of Indian Affairs does not maintain procedures or standards for determining whether a group has been previously recognized and the recognition procedure set forth in part 83 of title 25, Code of Federal Regulations, is intended to apply to initial recognition of a tribe.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Tribe" means the Jena Band of Choctaws of Louisiana.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Jena Band of Choctaws, Inc.

(4) The term "member" means an individual who is enrolled on the membership roll of the Tribe.

(5) The term "State" means the State of Louisiana.

SEC. 4. RESTORATION OF FEDERAL RELATIONSHIP.

Federal recognition of the Tribe extended by the Department of Interior in a letter dated July 11, 1938, and signed by the Assistant Commissioner of Indian Affairs Zimmerman and evidenced by other actions by the Bureau of Indian Affairs is hereby restored. All Federal laws of general application to In-

dians and Indian tribes including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), popularly known as the "Indian Reorganization Act", shall apply with respect to the Tribe and to the members.

SEC. 5. RESTORATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Tribe, and members thereof, which may have been abrogated or diminished before the date of enactment of this Act are hereby restored.

(b) EXISTING RIGHTS OF TRIBE.—Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of its members, that existed prior to the date of the enactment of this Act.

(c) EXISTING RIGHTS AND OBLIGATIONS.—Except as otherwise specifically provided in any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or its members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 6. SERVICES.

The Tribe and its members shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians and, notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act, to the Tribe and its members, without regard to the existence of a reservation for the Tribe or the location of the residence of any member on or near any Indian reservation.

SEC. 7. INTERIM GOVERNMENT.

Until such time as a constitution for the Tribe is adopted in accordance with section 9(a), the Tribe shall be governed by the Interim Council.

SEC. 8. MEMBERSHIP ROLL.

(a) BASE ROLL.—The membership list submitted to the Secretary by the Tribe on May 2, 1985, shall constitute the base roll of the Tribe, subject to the approval of the Secretary.

(b) ELIGIBILITY.—

(1) INTERIM MEMBERSHIP.—Until a constitution is adopted in accordance with section 9, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(i) was included on the membership list submitted to the Secretary on May 2, 1985,

(ii) was entitled to be included on such list under criteria established by the Tribe in its Articles of Incorporation dated May 22, 1974, but was not included, or

(iii) is a lineal descendant of an individual, living or deceased, who is included on such list.

(2) APPEAL TO SECRETARY.—Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. Any individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe shall be included on the membership roll.

SEC. 9. TRIBAL CONSTITUTION.

(a) IN GENERAL.—Upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Such constitution shall be submitted by the Interim Council to the Secretary no later than one year following the date of enactment of this Act. The election shall be conducted in accordance with section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(b) ELECTION OF TRIBAL OFFICIALS.—Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Such election shall be conducted according to the procedures stated in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

(c) TRIBAL GOVERNMENT.—Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution adopted under subsection (a) shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986, and all other Federal laws of general application to Indians and Indian tribes, including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.).

SEC. 10. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

SEC. 11. REAL PROPERTY.

(a) PROPERTY HELD IN TRUST.—The Secretary is authorized to accept in the name of the United States in trust for the benefit of the Tribe any real property acquired by the Tribe prior to or after enactment of this Act and located within the parishes of Rapides, Grant, or La Salle, Louisiana. The Secretary may accept in the name of the United States in trust for the benefit of the Tribe any real property held or acquired by the Tribe prior to or after the date of enactment of this Act that is located outside of such parishes.

(b) SUBJECT TO EXISTING RIGHTS AND OBLIGATIONS.—Any real property taken in trust by the Secretary shall be subject to—

(1) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax;

(2) foreclosure or sale in accordance with the laws of the State of Louisiana pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) the provisions of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(c) TAX EXEMPTION.—Any real property held in trust by the Secretary pursuant to this Act shall be exempt from Federal, State, and local taxation on and after the date such property is accepted by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 3095, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, S. 3095 is sponsored by Senator JOHNSTON and a companion bill, H.R. 3607, is sponsored by Mr. HUCKABY and Mr. BAKER.

The bill restores the Federal recognition to the Jena Band of Choctaws of Louisiana. It is a small band of 152 members. The committee held a hearing on the measure in July and the bill has a great deal of merit.

The Jena Band has submitted a series of letters to the committee covering the last 100 years of its history. These letters indicate that the tribe was recognized as a group of full-blooded Indians by the Dawes Commission at the turn of the century. In addition, during the 1930's, the tribe was provided with Federal funds for a school.

The bill restores the tribe to the status that was acknowledged in 1938 by the Bureau of Indian Affairs in a letter from the Assistant Commissioner of Indian Affairs. At that time, the BIA offered to provide the tribe with Federal trust land on the Mississippi Choctaw Reservation and other Federal services, but the promise was never fulfilled.

In a letter from A.L. Hector, Superintendent, BIA Field Service, Choctaw Agency, dated December 15, 1937, it states:

> There are only about 60 Indians there, mostly belonging to families or two cliques, actually 5 or 6 families. I believe that the ultimate solution for these would be to offer them rehabilitation with the Choctaws in Mississippi as they are Choctaw and speak the language. They are sharecroppers and wage hands where they are and are the remanent (sic) of a one time more numerous band decimated by tuberculosis and removal to Oklahoma.

This passage clearly indicates that there were a group of Choctaws living at Jena at the time.

There are several letters dealing with the issues of the schooling of the Jena Choctaw Indians which culminate in a letter of July 11, 1938, from Assistant Commissioner Zimmerman to the Choctaw Agency:

> This will be your authority for transferring as many of these Indians to the Pearl River area in Mississippi as you find it possible to persuade to take up new land. We hope that these transfers may be arranged promptly so as to deal with the entire situation effectively.

This letter clearly indicates the extension of Federal benefits and the acknowledgment of tribal rights by the Federal Government since the area alluded to is part of the Mississippi Choctaw Indian Reservation. It should be noted that, in general, only federally recognized Indian tribes reside on trust

land and this offer by the BIA to the Jena Choctaws establishes that the Bureau considered the Jena to be eligible for all Federal rights and benefits guaranteed to Indian tribes.

I urge my colleagues to support this restoration.

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

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

Mr. Speaker, I rise in support of S. 3095, the Jena Band of Choctaw of Louisiana Recognition Act.

This bill would formally extend Federal recognition to the Jena Band of Choctaws for the first time, making the band and its 152 members eligible for the services extended by the Bureau of Indian Affairs to Indians because of their status as Indians.

Mr. Speaker, while I support passage of this measure, I would like to point out that I have some reservations regarding section 2(9) of the bill. That section contains language which is ambiguous and, as a result, might be cause for future litigation. The BIA's recognition regulations do not apply to groups which the Federal Government recognized or dealt with as Indian tribes in 1978 when the regulations were adopted, or to presently recognized groups. In that sense the bill is correct that the BIA does not have regulations dealing with Indian tribes which were previously recognized; that is, recognized since 1978.

It is incorrect to suggest, however, that the BIA does not have regulations dealing with determining whether groups which claim previous recognition, or may once have had treaty relations or other dealings with the Federal Government, still exist as an Indian tribe. Such regulations do exist.

In closing, Mr. Speaker, I urge my colleagues to support this measure.

Mr. HUCKABY. Mr. Speaker, S. 3095, a bill to restore to the Jena Band of Choctaws of Louisiana their status as a federally recognized Indian tribe, is scheduled for floor consideration today. It is nearly identical to a bill I introduced, H.R. 3607, on which the House Interior Committee held hearings. I am pleased to have as cosponsors of this measure the members from the Louisiana House delegation, as well as BEN NIGHTHORSE CAMPBELL, BILL RICHARDSON, and ENI FALEOMAVAEGA, each of whom serves on the Interior Committee. I urge the House to support its passage.

Based on the 1990 census, the Fifth Congressional District of Louisiana which I represent was redrawn and the Jena Band is now no longer located in my new district. However, I feel it is not only my responsibility to follow through with the legislation I initiated, but it is also out of compassion I feel for a tribe that has struggled for years to obtain what it justly deserves.

The legislation would not create a new Indian tribe. Rather, it would restore the status of an Indian tribe to the Jena Band, which has previously been recognized by the Bureau of Indian Affairs [BIA] on several occasions.

In restoring Federal recognition to the Jena Band, S. 3095 will help the tribe address many serious problems, including poverty, alcohol and substance abuse, poor health, inadequate education, and substandard housing.

The arguments supporting restoration of Federal recognition for the Jena Band are strong and compelling.

As early as 1902, each family of the Jena Band of Choctaws was identified as full-blooded Mississippi Choctaw, entitling them to land and services from the Federal Government. Every publicly available census since 1880 has identified Jena Band of Choctaw members as full-blooded Choctaw Indians residing in Louisiana.

The BIA's actions during the 1930's, including providing services to the band, acknowledging the band's eligibility under the Indian Reorganization Act and offering the band tribal lands, established Federal recognition of the Jena Band of Choctaws of Louisiana as a separate and distinct Indian tribe.

Again, during the 1930's, the BIA provided appropriated funds to a contract school for the Jena Band, clearly indicating recognition of the tribe by the Federal Government.

In 1938, the Assistant Commissioner of Indian Affairs acknowledged in written correspondence the band's eligibility to trust land and services under the Indian Reorganization Act. The same letter offered to relocate the tribe to trust lands in Mississippi where, living on their own lands, the tribe would be eligible for Federal services and benefits. This BIA offer acknowledged the Jena Band's status as an Indian band or tribe.

Unfortunately, the BIA never followed through on any of the promises or commitments it made to the Jena Band. Since no members were able to read or write English—Choctaw is their native language—they were unable to motivate the BIA to act.

Had the BIA fulfilled its written commitments to the Jena Band, the tribe would now be living on trust land and receiving the full range of services offered to all other federally recognized Indian tribes.

All of the federally recognized tribes in Louisiana and the Mississippi Band of Choctaw support restoration of Federal recognition of the Jena Band of the Louisiana Choctaw. Furthermore, the Governor of Louisiana supports reinstatement of the Jena Band's status as a federally recognized tribe and the Louisiana State Legislature has passed a resolution supporting the tribe's efforts.

Before I close, Mr. Speaker, I believe it is important to address the legitimate concerns of some Members who do not think that Congress should be involved in recognizing new Indian tribes. It is true that BIA has regulations and an administrative procedure governing the initial Federal recognition of Indian tribes. Those regulations, however, simply do not apply to a tribe, such as the Jena Band, which has been previously recognized.

The BIA has no procedures whatsoever for determining whether an Indian tribe has been previously recognized. In the absence of any standards or procedures, the Congress has traditionally restored the status of such tribes by enacting restoration legislation similar to S. 3095. It is therefore both appropriate and necessary for the Congress to enact S. 3095 which would simply restore to the Jena Band the federally recognized status to which they are entitled.

Mr. BAKER. Mr. Speaker, I rise in strong support of S. 3095, legislation restoring Federal recognition to the Jena Band of Choctaw. Federal recognition was previously established through Federal commitments made to the Jena Band since 1902, and I believe their recognition must be restored.

In 1902, after presenting testimony before the Dawes Commission, each family of the Jena Band of Choctaw was identified as a full-blooded Mississippi Choctaw entitled to land and services from the BIA's predecessors. Since then, specific actions taken by the BIA have established Federal recognition of the Jena Band as a separate and distinct Indian tribe. These actions include: The written acknowledgement of the band's eligibility under the Indian Reorganization Act; the provision of services specifically to the band during the 1930's; and the offer of tribal lands in Mississippi to the band.

The Jena Band of Choctaw continues to exist as a separate and distinct Indian tribe. It is recognized as such by the State of Louisiana and the Administration for Native Americans [ANA], which has provided funding to the band for tribal staff, preparation of a 5-year economic plan, development of the tribal constitution, and other projects. The band has maintained a continuous leadership and consists of approximately 152 members.

Once an Indian tribe is recognized by the Federal Government, the relationship can be dissolved only by Congress. This is true whether the recognition was by Congress or the executive branch. To date, Congress has passed no legislation revoking Federal recognition of the Jena Band. It was the BIA's predecessor agency's inaction that resulted in the Jenas' loss of recognition status.

The U.S. Supreme Court in United States versus John, confirming the status of the Choctaw in Mississippi, noted that neither the fact that the Indians are merely a remnant of a larger group of Indians nor the fact that Federal supervision over them has not been continuous, destroys the power to deal with them.

The Jena Band of Choctaw began their journey for Federal recognition 90 years ago when the Jena Band marched 9 long months from their home in Louisiana to Muskogee, OK, to testify before the Dawes Commission.

The Dawes Commission identified the Jena members as full-blooded Mississippi Choctaw Indians entitled to land and services. But no land or benefits were given to them and they returned to Louisiana in March 1903. Upon their arrival home, the Jena Band received a letter stating that they could claim the land and benefits to which they were entitled, but only if they were to return to Oklahoma by August—only 4½ months later. The trip, of course, was impossible to make in such a short time and was never made.

During the 1930's, the Jena Band received educational benefits through the Bureau of Indian Affairs. Later, in 1938, the BIA offered the Jena reservation lands in Mississippi—a strong, clear, and unambiguous confirmation of the tribe's status as a recognized Indian tribe.

The Jena Band has repeatedly sought to have their Federal recognition restored. The

BIA has insisted that the tribe go through the standard acknowledgment process which is the means by which new tribes are recognized. Of course, this procedure does not apply to the Jena Band because they were previously recognized and the BIA's acknowledgment process does not include standards for determining whether a tribe was previously recognized.

Further, the BIA has repeatedly expressed its view that the Jena Band should not be recognized despite substantial evidence to the contrary and near unanimity among experts, Indian tribes, and others, that the Jena Band should be recognized. We have asked the administration to acknowledge the tribe, but BIA has declined.

Throughout this process, the Jena have struggled in the face of poverty and other difficulties to maintain continuity in their traditions. Despite the temptation to lose hope, they have never lost faith in the justice this country would eventually show them. These are deserving people with a reasonable request. I believe we have an obligation to act. This Congress has the authority and ample precedent to restore the Federal relationship with the Jena Band and I hope that we will finally do what is right in this case.

I commend my colleague from Louisiana, Mr. HUCKABY, for introducing this much needed legislation. I wholeheartedly support restoring the Jena Band of Choctaw's Federal recognition. Restoration of Federal recognition for the Jena Band of Choctaw is also supported by, among others, all of the federally recognized tribes in Louisiana, the Governor, Lieutenant Governor, and the State Legislature of Louisiana, and the Mississippi Choctaw Indians.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 3095.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

INDIAN EMPLOYMENT, TRAINING, AND RELATED SERVICES DEMONSTRATION ACT OF 1992

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1530) to authorize the integration of employment, training, and related services provided by Indian tribal governments, as amended.

The Clerk read as follows:

S. 1530

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act of 1992".

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) INDIAN TRIBE.—The terms "Indian tribe" and "tribe" shall have the meaning given the term "Indian tribe" in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(2) INDIAN.—The term "Indian" shall have the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, or Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government, authorize the tribal government to coordinate, in accordance with such plan, its federally funded employment, training, and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any such plan referred to in section 4 shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training.

SEC. 6. PLAN REQUIREMENTS.

For a plan to be acceptable pursuant to section 4, it shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the affected tribe.

SEC. 7. PLAN REVIEW.

Upon receipt of the plan from a tribal government, the Secretary of the Interior shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by such tribal government or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.

SEC. 8. PLAN APPROVAL.

Within 90 days after the receipt of a tribal government's plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval.

SEC. 9. JOB CREATION ACTIVITIES AUTHORIZED.

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall regional economic activity which has a reasonable likelihood of success and consistent with the purposes specifically applicable to Indian programs in the statute under which the funds are authorized.

SEC. 10. PRIVATE SECTOR TRAINING PLACEMENTS.

A tribal government participating in a demonstration program under this Act is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and, upon satisfactory completion of the training period, to guarantee permanent employment to such participants for a minimum of 12 months.

SEC. 11. FEDERAL RESPONSIBILITIES.

(a) RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.—Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

(b) REPORT REQUIREMENTS.—The single report format shall be developed by the Secretary, consistent with the requirements of this Act. Such report format, together with records maintained on the consolidated program at the tribal level shall contain such information as will allow a determination that the tribe has complied with the requirements incorporated in its approved plan and will provide assurances to each Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

SEC. 12. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this Act.

SEC. 13. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to a tribal government in order to further the purposes of this Act.

SEC. 14. ADMINISTRATION OF FUNDS AND OVERAGE.

(a) ADMINISTRATION OF FUNDS.—

(1) IN GENERAL.—Program funds shall be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount attracted from each program) are spent on allowable activities authorized under such program.

(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the tribe to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among such individual programs.

(b) OVERAGE.—All administrative costs may be commingled and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this Act.

SEC. 15. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

SEC. 16. REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.

(a) PRELIMINARY REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on the status of the implementation of the demonstration program authorized under this Act.

(b) FINAL REPORT.—Not later than five years after the date of the enactment of this Act, the Secretary shall submit a report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Education and Labor of the House of Representatives on the results of the implementation of the demonstration program authorized under this Act. Such report shall identify statutory barriers to the ability of tribal governments to integrate more effectively their employment, training, and related services in a manner consistent with the purposes of this Act.

SEC. 17. LABOR MARKET INFORMATION ON THE INDIAN WORK FORCE.

(a) REPORT.—The Secretary, in consultation with the Secretary of Labor, shall, in a consistent and reliable manner, develop, maintain and publish, not less than biennially, a report on the population, by gender, eligible for the services which the Secretary provides to Indian people. The report shall include, but is not limited to, information at the national level by State, Bureau of Indian Affairs Service area, and tribal level for the—

(1) total service population;

(2) the service population under age 16 and over 64;

(3) the population available for work, including those not considered to be actively seeking work;

(4) the employed population, including those employed with annual earnings below the poverty line; and

(5) the numbers employed in private sector positions and in public sector positions.

(b) INDIAN DEMOGRAPHIC INFORMATION.—The Secretary, in consultation with the Bureau of the Census of the Department of Commerce, and the National Center for Native American Studies and Policy Development authorized by Public Law 101-301, shall prepare a report on the need for comprehensive, accurate and periodically updated information on the size and characteristics of the Indian and Alaska Native population throughout the entire United States. This report shall include the need for information, together with the cost of acquiring such information, on the characteristics and need for education, health, housing, job training, and other basic needs of such population, and shall take into consideration the need for this information by Indian tribes and organizations serving Indians in nonreservation areas. The report shall be submitted to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Education and Labor of the House of Representatives not later than 12 months after the date of enactment of this Act.

SEC. 18. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ECONOMIC DEVELOPMENT PROGRAMS.

Any State with an economic development program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of the Intergovernmental Personnel Act of 1970, may deem appropriate to help ensure the success of such program.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 1530, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, S. 1530 is the Indian Employment, Training and Related Services Demonstration Act. This bill authorizes as demonstration program that would enable Indian tribal governments to consolidate various employment programs.

Tribal governments currently administer a variety of employment programs provided by several different Federal agencies. The burden for tribes to operate these programs is heavy and tribes are required to meet several administrative and reporting requirements set by each Federal agency. This bill would allow Indian tribes in the demonstration project to consolidate these programs and submit a single application to the Interior Department.

I thank my colleagues at the Committee on Education and Labor who assisted the Interior Committee in the amendment version which is before the House today. I am submitting a letter from Chairman FORD which states that his concerns have been met in the amended bill.

This bill calls for no expenditure of funds and is simply a better way to provide employment programs for Indian people.

I urge my colleagues to support this bill.

COMMITTEE ON
EDUCATION AND LABOR,
Washington, DC, September 28, 1992.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning the proposed consideration of S. 1530, the Indian Employment, Training and Related Services Demonstration Act of 1991, which is scheduled for consideration under Suspension of the Rules on Tuesday, September 29, 1992. As you know, on May 21, 1992, I wrote to the Speaker setting out the concerns of the Committee on Education and Labor relating to this legislation and the fact that parts of it fall within our jurisdiction. At that time, I made it clear that if those concerns were not addressed, I would have to seek sequential referral of the legislation.

I am pleased that our staffs have been able to fashion a compromise which addresses our concerns and will allow this program to

reach its goals. I am in agreement with the substance of this compromise and will not register objection to consideration of the measure on Tuesday. However, in view of this Committee's jurisdiction under the Rules of the House and our continuing interest in this area, and in light of the continuing cooperation between our Committees in addressing the employment and training needs of Native Americans, I ask that you include this letter in the record of the debate on S. 1530 to protect this Committee's jurisdictional interests.

With kind regards,

Sincerely,

WILLIAM D. FORD,
Chairman.

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

Mr. Speaker, I rise in strong support of S. 1530, the Indian Employment, Training and Related Services Demonstration Act of 1992.

This bill would allow the tribes to reduce chronic unemployment and enhance their economic self-sufficiency by establishing a mechanism that will make it possible for them to integrate all of their employment services—regardless of funding source—into a single comprehensive program.

Mr. Speaker, S. 1530 has broad bipartisan backing and is supported by the administration. I urge my colleagues to do the same.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 1530, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

FINANCIAL INSTITUTIONS ENFORCEMENT IMPROVEMENTS ACT

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6048) to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes; as amended.

The Clerk read as follows:

H.R. 6048

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Enforcement Improvements Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—TERMINATION OF CHARTERS, INSURANCE, AND OFFICES

Sec. 101. Authority to appoint conservator for depository institutions convicted of money laundering.
Sec. 102. Revoking charter of Federal depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 103. Terminating insurance of State depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 104. Removing parties involved in currency reporting violations.
Sec. 105. Unauthorized participation.
Sec. 106. Access by State financial institution supervisors to currency transactions reports.
Sec. 107. Restricting State branches and agencies of foreign banks convicted of money laundering offenses.

TITLE II—NONBANK FINANCIAL INSTITUTIONS AND GENERAL PROVISIONS

Sec. 201. Identification of financial institutions.
Sec. 202. Prohibition of illegal money transmitting businesses.
Sec. 203. Compliance procedures.
Sec. 204. Nondisclosure of orders.
Sec. 205. Provisions relating to recordkeeping with respect to certain funds transfers.
Sec. 206. Use of certain records.
Sec. 207. Suspicious transactions and financial institution anti-money laundering programs.
Sec. 208. Anti-money laundering training team.
Sec. 209. International money laundering reports.

TITLE III—MONEY LAUNDERING IMPROVEMENTS

Sec. 301. Jurisdiction in civil forfeiture cases.
Sec. 302. Civil forfeiture of fungible property.
Sec. 303. Procedure for subpoenaing bank records.
Sec. 304. Deletion of redundant and inadvertently limiting provision in 18 U.S.C. 1956.
Sec. 305. Structuring transactions to evade CMIR requirement.
Sec. 306. Clarification of definition of financial institution.
Sec. 307. Definition of financial transaction.
Sec. 308. Obstructing a money laundering investigation.
Sec. 309. Awards in money laundering cases.
Sec. 310. Penalty for money laundering conspiracies.
Sec. 311. Technical and conforming amendments to money laundering provision.
Sec. 312. Preclusion of notice to possible suspects of existence of a grand jury subpoena for bank records in money laundering and controlled substance investigations.
Sec. 313. Elimination of restriction on disposal of forfeited property by the Department of the Treasury and the Postal Service.
Sec. 314. New money laundering predicate offenses.
Sec. 315. Amendments to the Bank Secrecy Act.
Sec. 316. Expansion of money laundering law to cover proceeds of certain foreign crimes.

TITLE IV—REPORTS AND MISCELLANEOUS

Sec. 401. Study and report on reimbursing financial institutions and others for providing financial records.
Sec. 402. Reports of information regarding safety and soundness of depository institutions.
Sec. 403. Immunity.
Sec. 404. Interagency information sharing.

TITLE V—COUNTERFEIT DETERRENCE

Sec. 501. Short title.
Sec. 502. Increase in penalties.
Sec. 503. Deterrents to counterfeiting.
Sec. 504. Reproductions of currency.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Civil money penalties.
Sec. 602. Authority to order depository institutions to obtain copies of CTRS from customers which are unregulated businesses.
Sec. 603. Whistleblower protection for employees of financial institutions other than depository institutions.
Sec. 604. Advisory group on reporting requirements.
Sec. 605. GAO feasibility study of the Financial Crimes Enforcement Network.

TITLE I—TERMINATION OF CHARTERS, INSURANCE, AND OFFICES

SEC. 101. AUTHORITY TO APPOINT CONSERVATOR FOR DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end the following new subparagraph:

"(M) MONEY LAUNDERING OFFENSE.—The Attorney General notifies the appropriate Federal banking agency or the Corporation in writing that the insured depository institution has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(b) INSURED CREDIT UNIONS.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Attorney General notifies the Board in writing that an insured credit union has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code;".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 20, 1992.

SEC. 102. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States

Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRE-TERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pre-termination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(D) The extent to which the national bank, Federal branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRE-TERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the savings association knew of, or were involved in, the commission of the money laundering offense of which the association was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

"(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) CONVICTION OF TITLE 18 OFFENSES.—

"(A) DUTY TO NOTIFY.—If a credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRE-TERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall take into account the following factors:

"(1) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(2) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(3) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(4) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.".

SEC. 103. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRE-TERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution is convicted of any criminal offense under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the depository institution knew of, or were involved in, the commission of the money laundering offense of which the institution was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the depository institution which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the depository institution has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the institution was found guilty.

"(D) The extent to which the depository institution has implemented additional internal controls (since the commission of the offense of which the depository institution was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with subsection (a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of this Act.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (w)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall take into account the following factors:

"(A) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(D) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.".

SEC. 104. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the appropriate Federal banking agency determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, and such violation was not inadvertent or unintentional;

"(ii) an officer or director of an insured depository institution has knowledge that an institution-affiliated party of the insured depository institution has violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(iii) an officer or director of an insured depository institution has committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of the agency's intention to remove such party from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the depository institution.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the agency.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the appropriate Federal banking agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon the depository institution, whereupon the institution-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such depository institution.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the agency from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the Board determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(ii) an officer or director of an insured credit union has knowledge that an institution-affiliated party of the insured credit union has violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(iii) an officer or director of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of the Board's intention to remove such officer or director from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the credit union.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Board.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Board from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

(c) ATTORNEY GENERAL NOTICE REQUIREMENT.—Section 1956 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.".

(d) TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO MONEY LAUNDERING ENFORCEMENT ACTIVITIES.—

(1) Section 5318(a)(1) of title 31, United States Code, is amended—

(A) by striking "or the Postal Inspection Service"; and

(B) by inserting "United States" before "Postal Service".

(2) Section 5322(a) of title 31, United States Code, is amended by striking "imprisonment" and inserting "imprisoned for".

SEC. 105. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 106. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such

information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 107. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by inserting after subsection (h) the following new subsection:

"(i) PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO ISSUE ORDER.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary;

"(B) any State agency;

"(C) any State branch which is not an insured branch; or

"(D) any State commercial lending subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED BRANCH.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—The term 'money laundering offense' means any criminal offense under section 1956 or 1957 of title 18, United States Code, or under section 5322 of title 31, United States Code.".

TITLE II—NONBANK FINANCIAL INSTITUTIONS AND GENERAL PROVISIONS

SEC. 201. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following new section:

"§ 5327. Identification of financial institutions

"(a) REGULATIONS REQUIRED.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to identify any customer (of the depository institution) which—

"(1) is a financial institution described in—

"(A) any subparagraph of section 5312(a)(2) other than subparagraphs (A) through (G); or

"(B) any regulation under any such subparagraph; and

"(2) has any account with the depository institution.

"(b) REPORTS REQUIRED.—Each depository institution shall report the names of and other information about financial institution customers required to be identified under subsection (a) to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation.

"(c) REPORTING OFFENSES.—No person shall cause or attempt to cause any depository institution to fail to file a report required by this section or to file a report containing a material omission or misstatement of fact.

"(d) AVAILABILITY OF REPORTS.—The Secretary shall provide reports filed under subsection (b) to appropriate State financial institution supervisory agencies for supervisory purposes.

"(e) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' means any financial institution described in subparagraph (A), (B), (C), (D), (E), or (F) of section 5312(a)(2).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.—

"(A) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following new item:

"5327. Identification of financial institutions.".

(d) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 5327 of title 31, United States Code (as added by subsection (a) of this section) shall take effect before January 1, 1994.

SEC. 202. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

(c) CRIMINAL FORFEITURE.—Section 982(a)(1) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

SEC. 203. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

SEC. 204. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.".

SEC. 205. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN FUNDS TRANSFERS.

(a) RECORDKEEPING REGULATIONS REQUIRED.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b) RECORDKEEPING REGULATIONS.—

"(1) IN GENERAL.—Where"; and

(2) by adding at the end the following new paragraphs:

"(2) DOMESTIC FUNDS TRANSFERS.—Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

"(3) INTERNATIONAL FUNDS TRANSFERS.—

"(A) IN GENERAL.—The Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, final regulations requiring that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments,

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in subsection (c), by striking "Each insured" and inserting "Subject to the requirements of any regulations prescribed jointly

by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured";

(2) in subsection (e), by striking "Whenever any" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any"; and

(3) in subsection (f), by striking "In addition to" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b) and in addition to".

(c) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 21(b)(3) of the Federal Deposit Insurance Act (as added by subsection (a)(2) of this section) shall take effect before January 1, 1994.

SEC. 206. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 207. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or regulations prescribed under such section 5325" after "section 5313(a)" each place such term appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—

"(1) IN GENERAL.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum—

"(A) the development of internal policies, procedures, and controls,

"(B) the designation of a compliance officer,

"(C) an ongoing employee training program, and

"(D) an independent audit function to test programs.

"(2) REGULATIONS.—The Secretary may prescribe minimum standards for programs established under paragraph (1).".

SEC. 208. ANTI-MONEY LAUNDERING TRAINING TEAM.

The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

SEC. 209. INTERNATIONAL MONEY LAUNDERING REPORTS.

(a) UNITED STATES OBJECTIVES.—Section 481(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C 2291(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) the objective of the United States in dealing with the problem of international money laundering should be to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions; and"

(b) ANNUAL REPORTS.—Section 481(e) of that Act (22 U.S.C 2291(e)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

"(i) which countries are major money laundering countries;

"(ii) which countries identified pursuant to clause (i) have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(iii) which countries identified pursuant to clause (ii) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings;

"(iv) which countries identified pursuant to clause (iii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings; and

"(v) which countries identified pursuant to clause (i)—

"(I) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations, and

"(II) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

"(B) In addition, for each major money laundering country, the report shall include findings on the country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

"(C) The report shall also include information on multilateral and bilateral strategies pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering.

"(D) The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(E) As used in this paragraph, the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.".

(c) DEFINITION OF MAJOR DRUG-TRANSIT COUNTRY.—Section 481(i)(5) of that Act (22 U.S.C. 2291(i)(5)) is amended—

(1) by inserting "or" at the end of subparagraph (A);

(2) by striking out "or" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

TITLE III—MONEY LAUNDERING IMPROVEMENTS

SEC. 301. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.

"(d) Any court with jurisdiction over a forfeiture action pursuant to subsection (b) may issue and cause to be served in any other district such process as may be required to bring before the court the property that is the subject of the forfeiture action.".

SEC. 302. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 of title 31, United States Code.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property—

"(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

"(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

"(d)(1) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds held by a financial institution in an interbank account, unless the financial institution holding the account knowingly engaged in the offense.

"(2) As used in this section, the term 'interbank account' means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 303. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1956, 1957, or 1960 of this title, section 5322 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 304. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 305. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS.—" before "No person"; and

(2) by adding at the end the following:

"(b) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 306. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 307. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 308. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 309. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986" after "criminal drug laws of the United States".

SEC. 310. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 311. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 312. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of the Internal Revenue Code of 1986".

SEC. 313. ELIMINATION OF RESTRICTION ON DISPOSAL OF FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 314. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 315. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears; and

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

SEC. 316. EXPANSION OF MONEY LAUNDERING LAW TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) by striking "involving the manufacture" and inserting the following: "involving—

"(i) the manufacture"; and

(2) by adding at the end the following:

"(ii) kidnaping, robbery, or extortion; or

"(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978;".

TITLE IV—REPORTS AND MISCELLANEOUS

SEC. 401. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) STUDY REQUIRED.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act (12 U.S.C. 3415). The study shall also include analysis of the effect of allowing nondepositor licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) REPORT.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 402. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall, unless otherwise prohibited by law, disclose to the appropriate Federal banking agency any information that the Attorney General, the Secretary of the Treasury, or such agency head believes raises significant concerns regarding the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall disclose to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury, shall disclose the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS, SAFETY OF GOVERNMENT INVESTIGATOR, INFORMANTS, AND WITNESSES.—If the Attorney General, the Secretary of the Treasury or their respective designees determines that the disclosure of information pursuant to paragraph (1) may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to Government employees, informants, witnesses or their respective families, or may disclose sensitive investigative techniques and methods, the Attorney General or the Secretary of the Treasury shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation, litigation, or prosecution, threatening serious bodily injury or death to Government employees, informants, or witnesses or their respective families, or disclosing sensitive investigation techniques and methods; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF DISCLOSURE REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, each appropriate Federal banking agency shall establish procedures for receipt of a disclosure report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information disclosed, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH DISCLOSURE REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that made the disclosure regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information disclosed.

(c) EFFECT ON AGENCIES.—This section does not impose an affirmative duty on the Attorney General, the Secretary of the Treasury, or the head of any agency or instrumentality of the United States to collect new or to review existing information.

(d) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 8 of the Federal Deposit Insurance Act.

(e) REPORT.—The Attorney General and the Secretary of the Treasury shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the end of each calendar year on their utilization of the exceptions provided in subsection (a)(1)(B).

SEC. 403. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 404. INTERAGENCY INFORMATION SHARING.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(t) AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.—

"(1) IN GENERAL.—A covered agency shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—

"(A) any other covered agency, in any capacity; or

"(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED AGENCY.—The term 'covered agency' means any of the following:

"(i) Any appropriate Federal banking agency.

"(ii) The Resolution Trust Corporation.

"(iii) The Farm Credit Administration.

"(iv) The Farm Credit System Insurance Corporation.

"(v) The National Credit Union Administration.

"(B) PRIVILEGE.—The term 'privilege' includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.".

TITLE V—COUNTERFEIT DETERRENCE

SEC. 501. SHORT TITLE.

This title may be cited as the "Counterfeit Deterrence Act of 1992".

SEC. 502. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Is guilty of a class C felony."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 503. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

SEC. 504. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1)—

(A) by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums)."; and

(B) by adding at the end the following new sentence:

"The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.".

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—Section 5321(a)(6) of title 31, United States Code, is amended to read as follows:

"(6) NEGLIGENCE.—

"(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

"(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to violations committed after the date of the enactment of this Act.

SEC. 602. AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN COPIES OF CTRS FROM CUSTOMERS WHICH ARE UNREGULATED BUSINESSES.

Section 5326 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection:

"(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—

"(1) IN GENERAL.—The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) to request any financial institution (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution under this subtitle with respect to any prior transaction (between such financial institution and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and

"(B) if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution failed to provide any copy of such report.

"(2) REPORTABLE TRANSACTION DEFINED.—For purposes of this subsection, the term 'reportable transaction' means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.".

SEC. 603. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF FINANCIAL INSTITUTIONS OTHER THAN DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5327 (as added by section 201(a) of this Act) the following new section:

"§ 5328. Whistleblower protections

"(a) PROHIBITION AGAINST DISCRIMINATION.—No financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or

1960 of title 18, or any regulation under any such provision, by the financial institution or any director, officer, or employee of the financial institution.

"(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the financial institution which committed the violation to—

"(1) reinstate the employee to the employee's former position;

"(2) pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

"(e) COORDINATION WITH OTHER PROVISIONS OF LAW.—This section shall not apply with respect to any financial institution which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q) of the Home Owners' Loan Act (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5327 (as added by section 1021(c) of this Act) the following new item:

"5328. Whistleblower protections.".

SEC. 604. ADVISORY GROUP ON REPORTING REQUIREMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986.

(b) PURPOSES.—The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

(c) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).

SEC. 605. GAO FEASIBILITY STUDY OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as "Fincen") established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

(b) SPECIFIC REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

(A) who is to be given access to the information in the system;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

□ 1720

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6048, the bill now under consideration.

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

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 6048, the Financial Institutions Enforcement Improvements Act, is based on H.R. 26, money laundering legislation which I introduced over a year ago, and which was passed by the House last year by a vote of 406 to 0.

The bill before us today represents a compromise between H.R. 26 and the money laundering provisions passed by the other body as part of S. 2733 on July 1.

I am pleased that the gentleman from Ohio [Mr. WYLIE] is a cosponsor of this legislation. He has worked very hard with me over the past 3 years to pass a money laundering bill. His cooperation and dedication to putting an end to money laundering has made it possible to bring this bill to the floor today. I also want to acknowledge the significant contributions of the gentleman from Iowa [Mr. LEACH] in developing this important piece of legislation.

I also want to point out that the provisions of this bill have been worked out with both the Judiciary and Foreign Affairs Committees, both of which have jurisdiction over parts of the bill.

H.R. 6048 will strengthen existing law by plugging loopholes and ensuring that those financial entities and persons assisting money launderers are punished. It contains the death penalty for money laundering financial institutions. Federally chartered or insured financial institutions which launder money put their charters or insurance certificate at risk of revocation if they are convicted of money laundering. Branches or agencies of foreign banks operating in the United States also risk losing their licenses if they are convicted of money laundering. This bill will put the next BCCI out of business.

Money laundering is a crime which makes the illegal drug business profitable. The vast amount of cash generated by drug dealers is actually a liability. Without a place to launder cash, drug dealers would be left with a vast pile of worthless paper. To profit from their murderous business they must be able to convert the cash into bank credits which can be concealed easily and transferred rapidly.

H.R. 6048 is a compromise that has been carefully crafted between the Members of the House and Senate Banking, Judiciary, and Foreign Affairs Committees. It resolves the differences between both the two Houses' money laundering bills. Passage of the bill today will give the other body the opportunity to agree to this bill before Congress adjourns at the end of the week and send it to the President.

The House gave its unanimous support to H.R. 26 last year by a vote of 406 to 0. Similar money laundering legislation had passed the House in 1990 by an identical vote.

I urge the House to do the same with this current, improved version of H.R. 26 so that we may send this legislation

to the Senate and then President as soon as possible.

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

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

Mr. Speaker, I rise in support of this bill as well. I must tell my colleagues, it is a very important piece of legislation. It represents 2½ years of hard work by the distinguished subcommittee chairman, the gentleman from Illinois [Mr. ANNUNZIO], and the ranking member, the gentleman from Ohio [Mr. WYLIE].

But I would like to pay particular attention today to the work of the gentleman from Illinois [Mr. ANNUNZIO]. Quite frankly, I think, FRANK, it is your persistence, your hard work, your dedication that has precipitated this bill, and it is a real testament to your leadership and your 2½ decades of service here to the Congress.

This is not an unimportant bill. It gives additional tools to banking regulators, prosecutors, and law enforcement officials to punish individuals and financial institutions engaged in money laundering.

The most significant sanction in this bill is a potential loss of an institution's charter if it engages in money laundering. And as the gentleman from Illinois [Mr. ANNUNZIO] has pointed out, our recent experience with the Bank of Credit and Commerce International, BCCI, exemplifies the need for this kind of extreme sanction.

Another section of the bill enhances the ability of the U.S. attorneys to seize and forfeit laundered assets.

As the gentleman from Illinois [Mr. ANNUNZIO] has said, this bill has passed this Congress actually on three prior occasions. Additional provisions have been added by Members of the other body, and I think they are very helpful. They include reports on international money laundering and an increase in penalties for illegal money transmitters and counterfeiters.

My colleagues should also know that a number of laws involving money laundering already exist, and the vast majority of financial institutions take pains to comply with these laws. Banks currently file over 7 million currency transactions reports with the Treasury Department.

A fair question, therefore, can be asked: Why more regulation of an overregulated industry? Why more potential intrusion of Government into private bank accounts?

In ordinary circumstances, this Member would be dubious of the approach contemplated in this bill, but these are not ordinary times. If one believes, as I do, that America is more challenged by drug dealers today than it was by commissars yesterday, this kind of approach makes a great deal of sense, because one of the very few ways to hold white collar criminals accountable is to trace their transactions through bank accounts.

Here let me just stress the timeliness of this particular day's consideration of this particular issue. Today law enforcement officials from the United States, Colombia, and Italy announced that they had arrested more than 165 people on charges related to the laundering of money from worldwide sales of cocaine by the Sicilian mafia and Colombian cocaine cartels. At a news conference in Rome, a senior Italian investigator said that he would not hesitate to define this operation as "the most important ever carried out in Italy and Europe against drug trafficking and money laundering."

In a 2-year investigation, Federal law enforcement officials traced more than $40 million from cocaine sales as this amount of money was transferred to Colombia through accounts at large commercial banks in the United States. Officials did not identify any of the banks involved. Commercial banks have become more attentive to money laundering in the last decade, but Federal officials have said none of the banks reported the transactions as suspicious.

My own sense is that as much as previous law has been very helpful, we do need to focus more of our efforts in the movement of funds internationally.

This bill will allow us to do that by requiring the Treasury and the Federal Reserve to promulgate regulations requiring banks to keep adequate records of large international wire transfers.

I urge my colleagues to support this bill in the wake of the BCCI scandal. But much more importantly, in the daily battle against drug kingpins, we owe it to our Federal law enforcement officials to do as much as we can to assist them in the war on drugs and the concomitant practice of money laundering.

Finally, let me just stress as strongly as I can that sometimes legislation comes to this body because it is commonsensical. Sometimes it comes because of the persistence and dedication of single Members. In this case, both have combined.

This particular bill, which potentially drives a large stake into the heart of some of the worst kinds of white collar crime, is a testament to the gentleman from Illinois [Mr. ANNUNZIO]. And for that, we thank him.

Mr. WYLIE. Mr. Speaker, I rise in strong support of H.R. 6048, the Financial Institutions Enforcement Improvements Act. I also want to thank my colleague, FRANK ANNUNZIO, for his leadership and his persistence in the fight against money laundering.

The genesis of the bill before us today is the conviction of BCCI in 1988 of money laundering charges in Florida. At that time, FRANK ANNUNZIO asked a very valid question: How is it that an institution that is convicted of laundering millions of dollars for the Colombian cartels is allowed to remain open? His response was to introduce a bill in early 1990 that mandated that any institution convicted of money laundering give up its charter and close its doors. I worked with FRANK on the charter revocation provisions and I offered a number of amendments to enhance the criminals penalties for money laundering and make it easier for the government to seize laundered funds.

We passed this money laundering legislation in the House in April 1990, by a vote of 406 to zero. We again passed a similar bill in October 1990. The bill was considered a third time in April 1991. Today is the fourth time that we will consider this legislation and I am hopeful that this bill will eventually pass in the other body. H.R. 6048 consists of practically all of the provisions that were in the three previous House bills plus some language, mainly law enforcement in nature, that was added at the request of Members of the Senate.

I am particularly proud of the provisions that we placed in this bill to make it easier for Federal law enforcement officials to seize laundered money. Federal district courts are endowed with jurisdiction in civil forfeiture cases. Fungible property, including cash, monetary instruments, and deposits, can be forfeited within 1 year of the money laundering offense giving rise to the forfeiture.

This bill makes it a Federal crime to obstruct a money laundering investigation. It also increases the criminal penalties for money laundering conspiracies.

Mr. Speaker, I have often said that money laundering is the lifeblood of any criminal enterprise involved in the sale of illegal drugs. We owe it to the police and the prosecutors to do as much as we can to assist in the ongoing war on drugs. H.R. 6048 will give U.S. attorneys and Federal law enforcement officials more tools to prosecute money launderers and seize the ill-gotten proceeds of the drug trade. I urge my colleagues to vote for this bill.

Mr. GONZALEZ. Mr. Speaker, I rise today in support of H.R. 6048, the Financial Institutions Enforcement Improvements Act. I want to congratulate Mr. ANNUNZIO for his efforts to bring this money laundering bill back before this House before his retirement later this year. Mr. ANNUNZIO's leadership and tireless determination will be greatly missed on the Banking Committee and in this House. I wish him well in his retirement.

This bill, in similar form, first passed the House in 1990 and again in June 1991. The version before you today has been worked out between the House Banking Committee, the House Judiciary Committee, the House Foreign Affairs Committee, and the appropriate committees in the other body.

This bill combats drug traffickers by attacking their ability to launder money through financial institutions by providing regulators with the ability to appoint conservators, revoke charters, and terminate deposit insurance for depository institutions convicted of money laundering. I urge my colleagues to support this legislation as the next important step in addressing the drug trade that is threatening to destroy our communities.

Mr. LEACH. Mr. Speaker, the minority has no further requests for time, and I would yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from Iowa for his very kind remarks.

I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House spend the rules and pass the bill, H.R. 6048, as amended.

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

A motion to reconsider was laid on the table.

ARKANSAS-IDAHO LAND EXCHANGE ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2572) to authorize an exchange of lands in the States of Arkansas and Idaho, as amended.

The Clerk read as follows:

S. 2572

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arkansas-Idaho Land Exchange Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Potlatch Corporation has offered to the United States Government an exchange of lands under which Potlatch would receive approximately 17,625 acres of scattered tracts of Federal lands in the State of Idaho in return for conveying to the United States lands owned by Potlatch consisting of approximately 40,922 acres of undisturbed bottomland hardwood lands in the State of Arkansas and approximately 1,170 acres of lands with important recreational and fisheries values in the State of Idaho;

(2) the lands in Arkansas that Potlatch has offered to convey to the United States are surrounded by Federal and State lands on the Cache and White Rivers which are designated as a "Wetland of International Importance" under the Convention on Wetlands of International Importance (commonly referred to as the "Ramsar Convention"), one of only 10 areas in the United States so designated;

(3) acquisition of these lands by the United States will remove the lands from sustained timber production and other development in the heart of this critical wetland ecosystem;

(4) the lands Potlatch has offered to convey to the United States will qualify for inclusion as a Wetland of International Importance under the Ramsar Convention;

(5) the lands Potlach has offered to convey to the United States are outstanding fish and wildlife habitat and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, and education;

(6) the lands the United States would convey to Potlatch do not contain comparable fish, wildlife, or wetland values;

(7) appraisals of all lands to be conveyed in the exchange have been completed; and

(8) the United States and Potlatch have agreed to the values and boundaries of all lands to be conveyed in the exchange and concur that the lands to be conveyed by Potlatch and the lands to be conveyed by the United States are of equal value.

(b) PURPOSE.—The purpose of this Act is to authorize and require the Secretary and the Secretary of Agriculture to participate in an exchange of lands that will provide environmental and economic benefits to the States of Arkansas and Idaho and to the Nation.

SEC. 3. EXCHANGE.

(a) INTER-AGENCY LAND TRANSFERS.—

(1) TRANSFERS BETWEEN SECRETARY AND SECRETARY OF AGRICULTURE.—

(A) TRANSFER TO SECRETARY OF AGRICULTURE.—Notwithstanding the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), not later than 30 days after the date of the enactment of this Act, the Secretary shall transfer to the jurisdiction of the Secretary of Agriculture for inclusion in the National Forest System approximately 9,114 acres of public lands in the State of Idaho, as identified upon a map entitled "Arkansas-Idaho Exchange—Idaho Lands", dated July 1992 and available for inspection in appropriate offices of the Secretary.

(B) TRANSFER TO SECRETARY OF AGRICULTURE.—Subsequent to the exchange required by subsection (b), the Secretary shall transfer to the Secretary of Agriculture for inclusion in the National Forest System approximately 891 acres of public lands in the State of Idaho identified for postexchange transfer upon the map referenced in subparagraph (A).

(2) TRANSFER TO SECRETARY.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall transfer to the Secretary for conveyance to Potlatch pursuant to subsection (b), approximately 7,979 acres of lands within the National Forest System in the State of Idaho, as identified upon the map referenced in subparagraph (A).

(b) EXCHANGE OF LANDS.—

(1) IN GENERAL.—Notwithstanding the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), within 60 days after the date of the enactment of this Act, the Secretary shall convey to Potlatch, in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and subject to paragraph (2) and any valid existing rights, approximately 17,625 acres of public lands in the State of Idaho identified for transfer to Potlatch on the map referenced in subsection (a)(1)(A) in exchange for lands owned by Potlatch consisting of—

(A) approximately 40,921 acres in the State of Arkansas, as depicted for transfer to the United States upon a map entitled "Arkansas-Idaho Land Exchange—Arkansas Lands," dated July 1992 and available for inspection in appropriate offices of the Secretary, and

(B) approximately 1,170 acres in the State of Idaho, as identified for transfer to the United States upon the map referenced in subsection (a)(1)(A).

(2) LIMITATION.—The Secretary may not convey any lands to Potlatch under this subsection unless title to the lands to be conveyed by Potlatch in exchange is in accordance with the Department of Justice standards for the preparation of title evidence in land acquisitions by the United States.

(c) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—To ensure the management benefits of consolidating isolated tracts of lands, any conflict between a number of acres of lands referred to in this Act and a depiction of the lands on a map referenced in this Act shall be resolved in favor of the map.

(2) CANCELLATION.—Prior to implementation of the exchange required by subsection (b), if Potlatch notifies the Secretary in writing that it no longer intends to complete the exchange, the lands referenced in subsection (a) shall revert to their status as of the day before the date of enactment of this Act, and shall be managed in accordance with applicable management plans.

(3) FINAL MAPS.—Not later than 6 months after the conclusion of the exchange required by subsection (b), the Secretary shall transmit maps accurately depicting the lands transferred and conveyed pursuant to this Act and the acreages and legal descriptions of such lands to the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands depicted for conveyance to Potlatch on the map referenced in subsection (a)(1)(A) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from operation of the mineral leasing and geothermal leasing laws effective upon the date of the enactment of this Act. Such withdrawal shall terminate on the date of completion of the exchange required by subsection (b) or on the date of any notification by Potlatch of a decision not to complete the exchange pursuant to paragraph (2).

(5) POWER SITE RESERVATIONS.—The following Executive Orders shall have no effect insofar as they involve the following described lands:

(A) The Executive order dated July 2, 1910, which established Powersite Reserve No. 91, with respect to those lands at Boise Meridian, T. 45 N., R. 4 E., Sec. 18, SW¼NE¼, comprising approximately 40 acres.

(B) The Executive order dated July 2, 1910, which established Powersite Reserve No. 106, with respect to those lands at Boise Meridian, T. 32 N., R. 5 E., Sec. 14, W½NE¼NE and SE¼NE¼NE¼, comprising approximately 30 acres.

(C) The Executive order dated August 31, 1917, which established Power Reservation No. 654, with respect to those lands at Boise Meridian, T. 48 N., R. 1 W., Sec. 3, SE¼NE¼, comprising approximately forty acres, and T. 46 N., R. 2 W., Sec. 14, lot 1, comprising approximately 28.15 acres.

(6) INDEMNITY LIST CLASSIFICATION ORDER.—Bureau of Land Management Indemnity List Classification Orders on public lands to be conveyed to Potlatch as required by subsection (b) are hereby removed from such classification.

(7) CONVEYANCE DOCUMENTS; BEFORE SURVEY.—Lands to be conveyed by the United States pursuant to subsection (b) on which any boundary is required to be surveyed in order to describe remaining public lands shall be conveyed by an interim conveyance. An interim conveyance under this paragraph shall convey to and vest in the recipient the same right, title, and interest in and to such lands as the recipient would have received in a patent issued pursuant to this Act. Upon completion of the survey, the Secretary shall issue a patent for such lands. The boundaries of such lands shall be those which were defined in and conveyed by the interim conveyance, except that the boundaries shall be corrected and redescribed in the patent,

where necessary, as a result of the survey of such lands.

SEC. 4. USE OF ACQUIRED LANDS.

(a) NATIONAL WILDLIFE REFUGE SYSTEM.—

(1) ADDITION TO THE SYSTEM.—The Secretary shall add the lands conveyed to the United States in Arkansas pursuant to section 3(b), to the Cache River and White River National Wildlife Refuges, as depicted upon the map described in such section. The Secretary shall manage such lands in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by section 3(b), the Secretary shall prepare and implement a single refuge management plan for the Cache River and White River Refuges, as expanded by this Act. Such plan shall recognize the important public purposes served by nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, such uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable law. Any regulations promulgated by the Secretary with respect to fishing, hunting, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), during the period beginning on the date of the completion of the exchange of lands under subsection 3(b) and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary shall administer all lands added to the Cache River and White River National Wildlife Refuges pursuant to this Act in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668d–668ee) and other applicable law.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting seasons on the lands referred to in subsection (a) shall comport with State law.

(b) PUBLIC LANDS.—

(1) STATUS.—Except as provided in section 3(a)(1)(B), the lands referred to in section 3(b)(1)(B) shall be public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and shall be managed in accordance with the provisions of such Act.

(2) GRANDMOTHER MOUNTAIN AREA.—Subject to valid existing rights, those Federal and non-Federal lands within the Grandmother Mountain Wilderness Study Area which are transferred to the jurisdiction of the Forest Service pursuant to section 3(b) shall be managed so as to preserve their suitability for designation as wilderness, pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), until the Congress determines otherwise. Nothing in this Act shall be construed as permitting or prohibiting continued use of motorized vehicles on existing routes within such area at the level of such use as was permitted on August 1, 1992.

(3) PLAN AMENDMENTS AND ENVIRONMENTAL ANALYSIS.—Within 24 months after the completion of the exchange under section 3(b), the Secretary and the Secretary of Agriculture shall prepare amendments to applicable resource management plans and accompanying documents pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), and section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for lands in Idaho conveyed to the United States pursuant to section 3(b).

SEC. 5. DEFINITIONS.

For purposes of this Act, the term—

(1) "Potlatch" means the Potlatch Corporation, chartered in the State of Delaware;

(2) "Secretary" means the Secretary of the Interior; and

(3) "lands" means both the surface and subsurface estates whenever both estates are owned by the United States or Potlatch, as applicable.

SEC. 6. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of the Ouachita National Forest are hereby adjusted to include those lands generally depicted on the map entitled "Proposed Proclamation Boundary Extension, East End of Lake Ouachita" and dated August 3, 1992.

(b) MAP AND LEGAL DESCRIPTION.—The map described in subsection (a) and a legal description of the lands depicted on the map shall be on file and available for public inspection in the appropriate offices of the Forest Service, United States Department of Agriculture. Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare a legal description of the lands depicted on the map referred to in subsection (a). Such map and legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors.

(c) RULE OF CONSTRUCTION.—For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this Act, shall be considered to be the boundaries of such forest as of January 1, 1965.

□ 1730

The SPEAKER pro tempore (Mr. ABERCROMBIE). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 2572, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, S. 2572 is a Senate passed bill that provides for an equal value exchange between the United States and the Potlatch Corp. whereby the United States would obtain important conservation lands in Arkansas that would be added to the National Wildlife Refuge System, and in return Potlatch will receive an equal value of Federal lands in Idaho. The bill also provides for transfer of management responsibilities between the Forest Service and the Bureau of Land Management with respect to certain other Federal lands in Idaho.

During our consideration of the bill, the Interior Committee adopted an amendment by the gentleman from Idaho. [Mr. LAROCCO] dealing with the management of the Grandmother Mountain Wilderness study area in Idaho, now managed by the Bureau of Land Management, but which under the bill would be transferred to the management of the Forest Service.

The Interior Committee amendment makes it clear that after such a transfer these wilderness study lands will continue to be managed to protect their wilderness values. It also maintains the ability of the Land Managing Agency to continue to address use of motorized vehicles, without any specific limitations imposed by Congress.

Mr. Speaker, this is a good bill that provides for a land exchange that will have important environmental benefits, while not compromising the important policy that wilderness study areas should not as a usual matter be released back to multiple-use management in a piecemeal fashion, but instead should ordinarily be addressed only in the context of a general, statewide wilderness bill.

Senator BUMPERS, along with his colleague from Arkansas, Senator PRYOR, and the two Idaho Senators are to be congratulated for their leadership on this measure, and I want also to commend Mr. LAROCCO for his good work in connection with its consideration by our committee. My thanks also go to the leadership of the Agriculture Committee and Merchant Marine and Fisheries Committee for their careful and prompt consideration of this matter. I urge the passage of the bill.

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

Mr. HEFLEY. Mr. Speaker, we have no objections, and the administration has no objections to this bill. I urge its passage.

Mr. ALEXANDER. Mr. Speaker, I rise in support of this bill and am proud to be a cosponsor of the legislation. This bill, as amended, is good for the States of Arkansas and Idaho.

I would like to draw your attention to a provision contained in section 4 of the bill, a provision which I offered. This provision guarantees that the land in Arkansas will be kept open to the public for hunting, fishing, and trapping. This language is intended to guarantee that the good people of Arkansas will continue to have the opportunity to fully enjoy the great natural beauty of the land included in the Cache and White River Refuges.

For this reason, I ask that you support this very worthwhile and important legislation.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2572, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ABRAHAM LINCOLN RESEARCH AND INTERPRETIVE CENTER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2548) to authorize the Secretary of the Interior to establish an Abraham Lincoln Research and Interpretive Center, as amended.

The Clerk read as follows:

H.R. 2548

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

SECTION 1. ABRAHAM LINCOLN INTERPRETIVE CENTER.

The Act entitled "An Act to authorize the Secretary of the Interior to establish the Lincoln Home National Historic Site in the State of Illinois, and for other purposes", approved August 18, 1971 (85 Stat 347), is amended by adding at the end the following new section:

"SEC. 4. ABRAHAM LINCOLN INTERPRETIVE CENTER.

"(a) ESTABLISHMENT.—In order to provide for the education, inspiration and benefit of the American people, and to further the interpretion of the life and contributions of Abraham Lincoln and his times, the Secretary of the Interior is authorized to establish at or near the Lincoln Home National Historic Site an interpretive center which shall be known as the Abraham Lincoln Interpretive Center (hereafter in this section referred to as the 'center'). The center shall be added to and administered as part of the Lincoln Home National Historic Site. Upon establishment of the center, the boundary of the Lincoln Home National Historic Site is hereby modified to include the center.

"(b) ACQUISITION OF LAND.—For the purposes of this section, the Secretary may acquire land or interests in land near the Lincoln Home National Historic Site by donation, purchase with donated or appropriated funds, or exchange. Lands or interests therein owned by the State of Illinois or any political subdivision thereof may be acquired only by donation.

"(c) CONSTRUCTION, OPERATION, AND MAINTENANCE OF FACILITIES.—In carrying out this section, the Secretary is authorized to construct, operate, and maintain a facility, including an exhibit area, in order to preserve and make available materials related to the life of Abraham Lincoln and to provide interpretive and educational services which communicate the meaning of the life of Abraham Lincoln.

"(d) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into cooperative agreements with (1) appropriate Federal agencies and the State of Illinois, or any political subdivision thereof, for the interpretation of resources of the center, and (2) with the owners of documents and artifacts of historical or cultural significance as determined by the Secretary.

"(e) DOCUMENTS AND ARTIFACTS.—In carrying out this section, the Secretary may acquire by purchase with donated funds, exchange, loan, or donation documents and artifacts related to the purpose of the center for display at the center.

"(f) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriate by section 3, there is authorized to be appropriated not more than $18,000,000 to carry out this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2548, the legislation now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 2548 is legislation introduced by Representative RICHARD DURBIN to provide for the establishment of an Abraham Lincoln Interpretive Center at the existing Lincoln Home National Historic Site in Springfield, IL.

Abraham Lincoln is one of the most significant figures in the history of the United States. Springfield is the site of many significant events in the life of the 16th President of the United States. Abraham Lincoln moved to Springfield in 1837 and lived there on and off until departing for the White House in 1861. Springfield was the place where Lincoln married, raised his family, practiced law, campaigned for political office and is buried.

The Lincoln Home National Historic Site was established in 1971. The current visitors center has no exhibits on Lincoln and the storage area for Lincoln related item which is an old barn on the site, lacks proper insulation, leading to variations in heat and humidity which could be damaging to historical resources. Although there are several Lincoln sites in the National Park System, none of them tell the story of his entire life or his years as President. The center will interpret Lincoln's life and contributions, provide an opportunity to exhibit Lincoln artifacts and documents owned by the National Park Service and orient visitors to other Lincoln related sites in the Springfield area.

The Interior Committee adopted an amendment in the nature of a substitute which significantly scaled back the scope and potential costs of the bill from when it was introduced. The substitute deleted authorization for a research or library component of the proposed center. A research facility is not in keeping with the mission of the National Park Service and there would have been significant costs associated with the proposed research center. The substitute made several other changes including providing that State lands could be acquired by donation only and allowing purchase of Lincoln related artifacts with donated funds only.

Mr. Speaker, Abraham Lincoln is revered throughout the world for his dedication to the principles of freedom and democracy. He played a critical role in one of the most trying times in our Nation's history. His legacy goes beyond one of national significance to one of international significance. The bill we are considering today would help interpret the life and contributions of the person who may well be the most significant figure in the history of the United States.

The bill as amended is a straightforward authorization for a visitors center at an existing park unit. The current park facilities are inadequate. The Interior Committee substitute reduces the costs of the proposed center by nearly two-thirds the amount originally contemplated and brings it in line with the interpretive mission of the National Park Service. The extraordinary life and historical contributions of the 16th president of the United States deserve to be interpreted for the benefit of present and future generations. I urge my colleagues to support the bill.

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

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

Mr. Speaker, I have strong concerns about H.R. 2548, which would authorize construction of an $18 million Lincoln interpretive center in Springfield, IL.

I know that the gentleman from Minnesota [Mr. VENTO] has made a strong effort to cut back on the scope of this proposal. He has worked hard at it. It was originally proposed to be a $30 to $60 million proposal. He has cut it back to $18 million. It think that is commendable.

Mr. Speaker, our 16th president remains a reversed figure in American history today and is well-known throughout the world as a true leader in the struggle for democracy and freedom.

President Lincoln certainly deserves recognition within the National Park System and he is so honored, more than any other American already.

In fact, there are currently seven units of the Park System which deal substantially with Lincoln's life and accomplishments.

The Lincoln story has been covered, literally, from cradle to grave.

The Springfield site, as it is, does a good job of presenting Lincoln's years in that city.

The site has a 5,700-square foot visitor center which is adequate to meet basic visitor center needs.

Besides these facilities, Springfield is home to the Lincoln collection of the State historical society and is about 50 miles from the University of Illinois at Champaign, which has one of the foremost Lincoln centers in the world.

Mr. Speaker, I am going to oppose this bill because I cannot see how we can possibly justify it, even at the reduced amount of money, even at the $18 million in taxpayer's dollars, when we have a backlog in the Park Service of some 30 parks that are waiting their first visitor center. It is not a matter of improving a visitor center for them, it is a matter of awaiting their first visitor center.

The National Park Service never has identified a need for this facility. It appears to me that the real proponents of this facility are the city of Springfield and the State of Illinois, and I think that is fine. President Lincoln is a favorite some of the State of Illinois, and if they want to attract more visitors to the State of Illinois I think they should do it. If they can do it with a Lincoln Center, I think they should do that, but I also, Mr. Speaker, think they should pay for it from the State of Illinois, rather than us pay for it out of the Federal budget, as difficult as it is for us to get the funds together to do the things that are desperately needed within our Park System right now.

Mr. Speaker, I would encourage opposition to this bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman for yielding time to me. It is with humility and some irony that this Democrat rises to speak on behalf of the most famous Republican President in the history of our Nation, and albeit the most famous President in the history of our Nation.

I am a resident of Springfield, IL, Mr. Lincoln's home town. My congressional office is located in the Lincoln home area. The gentleman from Colorado [Mr. HEFLEY] and the gentleman from Minnesota [Mr. VENTO] I think would be amazed at the number of people who come to visit the Lincoln home, not only from Illinois but across the Nation and around the world.

□ 1740

Each year we estimate some 600,000 visitors come to the Lincoln home. Unfortunately, they see a great Lincoln home, but they do not see other things that tell the Lincoln story.

For example, there is a handwritten version of Lincoln's Gettysburg Address in his own handwriting which we do not have any place to display at this point. That is one very tiny example of the artifacts and documents from Mr. Lincoln's life which are spread across the Nation now, and are not gathered in one place for protection.

When this idea first was presented I asked the National Park Service to establish a feasibility study on this Abraham Lincoln Study Center, and they did a masterful job. In the course of that feasibility study they came to the conclusion that there just was no single repository in the United States for the Lincoln documents and artifacts. They are spread and scattered across the Nation, and it is very, very difficult, in fact impossible for true Lincoln scholars, or even persons interested in the history of his life to learn the story, so we went to work to put together a proposal.

I want to commend my colleagues, the gentleman from Colorado [Mr. HEFLEY] and the gentleman from Minnesota [Mr. VENTO], for accepting what we know to be the budgetary realities in this town by reducing the National Park Service's high estimate of $60 to $18 million for the interpretive and visitors center. I would like to make the comment that we in Illinois do not come to this Chamber very often when we are looking for help with the National Park Service. This particular Park Service facility, the Lincoln home, was authorized in 1971. This is the first attempt to expand that authorization over 20 years later. This is the only National Park Service site in my State. Some States are blessed with 20 and more National Park Service sites, and I think that is all well and good for our Nation. But we come infrequently to ask for help. We try as best we can to reduce our demands to a realistic level, and we certainly come when we believe there is a need, and in this situation, in this circumstance I think the gentleman from Colorado and the gentleman from Minnesota will agree that this President who has no Presidential library, who has no Lincoln museum, and in fact with the seven Park Service sites has pieces of his life that are being highlighted in different spots across the Nation, really deserves one center that attempts to interpret his life. We are proud to ask that it be located in Lincoln's hometown.

I thank the committee for their fine work, and I hope that the committee and the House will give this favorable consideration.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I urge support for the bill.

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

The SPEAKER pro tempore (Mr. BILBRAY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2548, as amended.

The question was taken.

Mr. HEFLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONVEYING CERTAIN LANDS TO TOWN OF TAOS, NM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5548) to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM, as amended.

The Clerk read as follows:

H.R. 5548

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

SECTION 1. CONVEYANCE OF PROPERTY.

Not later than 6 months after the date of enactment of this Act, the Secretary of Agriculture shall convey by quit-claim deed to the town of Taos, New Mexico, subject to the terms and conditions stated in section 2, all right, title, and interest of the United States in and to the land and improvements thereon described as follows:

That property locally referred to as the "Old Taos Ranger District Office and Warehouse" located in the town of Taos, Taos County, New Mexico, containing approximately 0.633 acres, specifically described in that certain warranty deed dated January 22, 1937, by William T. And Mary E. Hinde, husband and wife, to the United States, as recorded on January 23, 1937, in book A-34, page 415, of the Record of Deeds of Taos County, New Mexico.

SEC. 2. TERMS AND CONDITIONS.

(a) CONSIDERATION.—The conveyance described in section 1 shall be in consideration of the amount of $360,000, payable in full within the 6-month period referred to in section 1 or, at the option of the town of Taos, in 20 annual payments of $18,000 due on January 1 of the first year following enactment of this Act and annually thereafter until the total amount due has been paid, as agreed upon by the Secretary of Agriculture. The cash so received shall be deposited into a special fund in the Treasury which will remain available subject to appropriations until expended by the Secretary for the purpose of acquiring, within the State of New Mexico, lands or administrative facilities on National Forest System lands. The town of Taos shall not be charged interest on amounts owed the United States for such conveyance.

(b) RELEASE.—On transfer of the property under section 1 the town of Taos shall release the United States from any liability for claims relating to the property.

(c) REVERSION.—The conveyance described in section 1 shall be a conveyance of fee simple title to the property, subject to reversion to the United States if the property, subject to reversion to the United States if the property is used for other than public purposes or if the compensation requirements described in subsection (a) are not met.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5548, the bill we are now considering.

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

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 5548, introduced by Mr. RICHARDSON, would convey to the city of Taos, NM, the Old Taos Ranger District Office and Warehouse. This building is currently owned by the Forest Service, but is no longer needed by the agency which has vacated the building and is now leasing it to the city. The Forest Service has testified in favor of conveying the building to the city as long as the United States receives fair market value for the property. The bill, as amended, does require the city to pay fair market value for the property.

The bill before us is also consistent with budget proceedings. The use of funds received from the sale of the building are subject to appropriation.

This bill is noncontroversial and I urge my colleagues to support it.

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

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

Mr. Speaker, I rise in support of H.R. 5548, which would authorize the sale of the Old Taos Forest Service Ranger Station and Warehouse to the city of Taos, NM.

This legislation has been fully explained by Chairman VENTO. It is supported by the administration and the entire New Mexico congressional delegation. I believe the $360,000 price for this facility included in the legislation is fair to both the taxpayer and the city of Taos. Mr. RICHARDSON and Chairman VENTO certainly did a good job of producing a bill that is fair and still supported by the major interests involved.

I urge my colleagues to support H.R. 5548.

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], the sponsor of this bill.

Mr. RICHARDSON. Mr. Speaker, passage of H.R. 5548 is critically important to the town of Taos and Taos County, NM. This legislation will convey the Forest Service's Old Taos Ranger Station to the town of Taos, NM.

For many years the town of Taos has tried to obtain the old Forest Service Ranger Station building in hopes of converting it into a children's library and adult literacy center. Because the condition of the building makes it no longer suitable for use by the Forest Service, the building would be ideal for the town's purposes.

However, because of the Taos' meager financial resources, this has not been possible. For the fiscal year 1992, the town of just over 4,000 people raised $186,932 from property taxes. The median family income in Taos is $12,928, and 26.5 percent of families in Taos live below the poverty line. Like the rest of Taos County, which is consistently one of the poorest in the Nation, the unemployment rate hovers around 20 percent. In addition, the town recently received a preliminary construction cost estimate for the renovations necessary to make the building suitable for use as a children's library—a staggering $420,000.

H.R. 5548 will allow the town to obtain the building, at fair market value, under terms that won't impose financial hardship. The town of Taos maintains strict preservation requirements for buildings in the downtown area, ensuring that the historical and cultural integrity of the building will be protected.

Mr. Speaker, transfer of the Old Forest Service building to the town of Taos is a logical and practical move for everyone involved. More importantly, it will serve as an invaluable resource for the town to help educate future generations. I urge my colleagues to join me in support.

Mr. Speaker, I include for the RECORD the attached testimony given by the mayor of Taos before the Interior Subcommittee on National Parks and Public Lands.

TESTIMONY OF THE MAYOR OF TAOS

Mr. Chairman, Honorable Members of this Committee. I am Eloy A. Jeantete. I am the Mayor of Taos. With me is Gus Cordova, the Town Manager. Taos is a small community of 4,000 people located in northcentral New Mexico.

I thank you for the opportunity to come before this committee, and testify on a matter that is very important to our community. I am also pleased to see you again, Mr. Chairman. It has been a couple of years since we last discussed this issue in your office.

Allow me to explain the nature of our request. The United States Forest Service has recently vacated an old office building that was built in 1937. The adobe building was constructed using WPA funds and labor, and was designed to house the district office of the Carson National Forest.

The building and attached garage is approximately 6,000 square feet and sits on a small lot that is 6/10 of an acre. The building has a reception area, two lavatories, a storage room, 10 garage bays, and several offices.

The pueblo style building is constructed of adobe walls and a mixture of wood and concrete floors. The roof structure of the building is built-up with several inches of dirt fill under a conventional asphalt membrane.

The property is not assessed by the County, and no property taxes are paid by the government.

The reason that this building is important to the citizens of Taos, is that it is located next to our community center. All the surrounding buildings are owned by the Town of Taos and are used for government purposes.

We feel that the building could serve the citizens of our community better if it was owned by the taxpayers, as opposed to putting it up for bid for the private sector. It's location would allow us to repair it and make it part of our public buildings.

We have tried for some time now to obtain funding to construct a library for our community. We have not been successful. As a result, we continue to lease a building that is owned by the University of New Mexico, in order to provide library services to our citizens.

The old forest service building could be remodeled to meet our needs for library space. Our highest priority would be to house the children's library which is now overcrowded due to lack of space, very little parking and poor accessibility. We would also like to house our adult literacy program in this building. We have many of our citizens that require this program, and this building could provide the much needed learning environment.

As you are aware, Mr. Chairman, we have come to Washington once before, to appeal to your good judgement, to make this building available to our citizens. We had hoped that somehow the building could be transferred from the federal government to our local government at no cost to the taxpayers.

We had hoped that since taxpayer dollars built the structure in 1937, that the local taxpayers could get to benefit for it's future use.

As I understand, the Forest Service does not agree with my assessment. The Forest Service would like for us to pay $330,000 to acquire the facility. Mr. Chairman, I suggest to you that the taxpayers did not pay $330,000 to build the facility in 1937. The only reason that it is appraised so high, is because it is located in our central business district.

In all fairness to the Forest Service, whom we have alot of respect for; they have agreed to let us pay the $330,000 over a period of twenty years. This is very reasonable on their part, and we thank them.

My primary concern is that the building is very old. It needs a new roof. It also needs new plumbing and new electrical wiring. The heating system needs to be replaced. The windows and doors need to be replaced with energy efficient products.

We have consulted a local architect for advise. He has informed me that the repairs to the building will cost at least $150,000.

You may ask, why does the Mayor want it, if it is so old and in need of repair? Mr. Chairman, and members of this committee. We simply cannot afford to let this opportunity go by, and let the private sector convert it into small shops or other uses incompatible with our community needs.

Mr. Chairman, you may not be able to transfer this building to us without some form of compensation. The rules of government may not allow this committee to do it. But I, in fairness to our citizens, felt an obligation to at least ask you to consider it.

Our second request, Mr. Chairman, would be for the committee to take into consideration the condition of the building. Assuming the architects estimate is correct, the building could be depreciated by $150,000. This would mean that the building would be purchased by the Town for $180,000 over a twenty year period.

This would be a good compromise, in that we would use the savings to repair the building, and make it usable for the library in a shorter period of time. The federal government would also receive just compensation.

Finally, Mr. Chairman, if none of the two proposals are acceptable to the committee; we will accept whatever decision the committee feels is necessary. I know that the committee will use its good judgment, and I trust that you will make the right decision.

Thank you very much Mr. Chairman. Mr. Cordova and I stand before you to answer any questions you may have.

Mr. Speaker, I ask my colleagues to join in support of this legislation and I thank the gentleman from Colorado [Mr. HEFLEY] and the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5548, as amended.

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

A motion to reconsider was laid on the table.

MIMBRES CULTURE NATIONAL MONUMENT ESTABLISHMENT ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1528) to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

S. 1528

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mimbres Culture National Monument Establishment Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the prehistoric Mimbres tradition was the most significant expression of the Mogollon culture, and represents one of three great prehistoric civilizations of the American Southwest;

(2) the Mimbres and Gila River valleys, including the Silver City, New Mexico, area, contain many Mimbres sites;

(3) some of the Mimbres pueblos in those valleys were built during the classic phase of that culture in the 11th century and are among the largest in the southwestern United States;

(4) the Mimbres people developed sophisticated canal irrigation technology prior to the Anasazi Culture;

(5) the Mimbres material culture is epitomized by distinctive and strikingly painted black-on-white pottery that is recognized as the consummation of several formal, pictorial, and iconographic traditions in the American Southwest;

(6) Mimbres pottery is internationally known and is probably the single most famous prehistoric American art style;

(7) many Mimbres sites have been vandalized or destroyed, and remaining sites are threatened by further vandalism and illegal pot-hunting; and

(8) in recognition of the national significance of the Mimbres sites and the urgent need to protect the valuable Mimbres cultural resources from vandalism and destruction, it is appropriate that a national monument and a system of archeological protection sites be established in New Mexico.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the nationally significant cultural resources associated with the prehistoric Mimbres tradition;

(2) to provide for the protection and interpretation of these resources for the benefit and enjoyment of present and future generations;

(3) to facilitate research activities; and

(4) to encourage government and private sector protection actions.

SEC. 3. ESTABLISHMENT OF THE MONUMENT.

(a) IN GENERAL.—There is hereby established the Mimbres Culture National Monument (hereinafter in this Act referred to as the "monument") in the State of New Mexico as a unit of the National Park System, consisting of approximately 945 acres, including the Cameron Creek, Mattocks, TJ Ruin, and Woodrow Units, as generally depicted on a map entitled "Mimbres Culture National Monument", numbered 80,008 and dated September 1992. Such map shall be kept on file and available for public inspection in the office of the Director of the National Park Service and in appropriate offices of the National Park Service in the State of New Mexico.

(b) ACQUISITION OF LANDS.—(1) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands and interests in land within the boundaries of the monument by donation, purchase with donated or appropriated funds, or exchange, except that lands or interests therein owned by the State of New Mexico or a political subdivision thereof may not be acquired except by donation or exchange.

(2) Lands or interests in land may not be added to the monument after the date of enactment of this Act without specific authorization by Congress and the consent of the owner of such land or interest therein, except that, the Secretary may acquire necessary access easements to provide for administrative or public access, or to provide alternative access to landowners, in accordance with the general management plan required by section 4(b) of this Act.

(3) Subject to negotiated agreements to ensure cultural resource protection, an owner of improved residential property within the boundaries of the monument may, on the date of the acquisition of such property, retain for the owner and the owner's successors and assigns, a right of use and occupancy of the property for such residential purposes as existed before August 2, 1991, for a term, as the owner may elect—

(i) of not more than 25 years; or

(ii) ending at the death of the owner or the owner's spouse, whichever is later.

(c) VISITOR CENTER.—The Secretary shall establish a visitor center and administrative headquarters for the monument in Silver City, New Mexico. The Secretary is authorized to acquire, in accordance with subsection (b)(1) of this section, up to 3 acres of land in Silver City for the purpose of establishing the visitor center and administrative headquarters.

SEC. 4. ADMINISTRATION OF THE MONUMENT.

(a) IN GENERAL.—The Secretary shall administer the monument in accordance with the provisions of this Act and laws generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) GENERAL MANAGEMENT PLAN.—Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary shall, in consultation with appropriate Federal and State agencies, public and private entities, affected landowners, and American Indian groups, including the Zuni Tribe, prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a general management plan (hereinafter in this Act referred to as the "plan") for the monument consistent with the purposes of this Act. The plan shall include—

(1) a statement of the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of the monument's resources;

(2) a resource protection program, including resource inventories;

(3) a general interpretive program, which shall include dissemination of information on the Masau Trail;

(4) a general development plan for the monument, including a description of facilities needed to accommodate for public use and for resource protection, and the estimated costs thereof;

(5) a research plan to evaluate broad aspects of the Mimbres culture, developed in cooperation with other Federal and State agencies, and public and private entities;

(6) a feasibility analysis of the WS Ranch archaeological site, including management options and the potential for public use and interpretation;

(7) details of proposed cooperative agreements; and

(8) a joint management plan for the Mimbres Culture Archaeological Sites Protection System established pursuant to section 5 of this Act. Such plan shall include—

(A) resource protection measures and associated costs;

(B) research needs and plans;

(C) a general interpretive program for the system; and

(D) guidelines for cooperative agreements, proposed cooperative agreements, and associated costs.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate local institutions of higher learning for the purpose of establishing a curatorial operation for the care and maintenance of Mimbres cultural artifacts. Such cooperative agreements may include an agreement to provide funding assistance, subject to appropriation, specifically for the curation of Mimbres cultural artifacts.

(2) The Secretary may enter into cooperative agreements with other Federal agencies and other public and private entities for the implementation of the research plan referred to in subsection (b)(5).

(d) RESEARCH SITE.—The Secretary shall administer the Woodrow Unit of the monument primarily as a research site. General public use facilities shall not be provided at the Woodrow Unit.

(e) IRRIGATION DITCH MANAGEMENT.—The Secretary shall not interfere with the continued use, maintenance, and operation of irrigation ditches located within the boundaries of the monument as of the date of enactment of this Act.

SEC. 5. MIMBRES CULTURE ARCHAEOLOGICAL SITE PROTECTION SYSTEM.

(a) ESTABLISHMENT.—(1) In order to encourage the protection, interpretation, research, and integration of information about the Mimbres culture, there is hereby established the Mimbres Culture Archaeological Site Protection System (hereinafter in this Act referred to as the "system") in the State of New Mexico, as generally depicted on a map entitled "Mimbres Culture Archaeological Site Protection System", numbered 80,006-B and dated April, 1991.

(2) The system shall consist of the following eleven sites—Black Mountain; Cottonwood; Gatton Park; Lake Roberts; Old Town; Pony Hills; Pine Flat; Red Rock Cemetery; Red Rock Pithouse; WS Ranch; and Rio Vista.

(b) ADDITIONAL SITES.—(1) The Secretary shall undertake research to locate additional Mimbres sites on Federal lands in New Mexico.

(2) The owner of a non-Federal site may nominate such site for inclusion in the system. Upon nomination of such site, the Secretary shall review the site to determine whether the addition of the site is consistent with the purposes of the system. The Secretary shall include any recommendation with respect to the site in the report referred to in subsection (c).

(3) Addition of new sites or deletion of existing sites from the system may only be made by an Act of Congress.

(c) REPORT.—Not later than 3 years after the completion of the general management plan referred to in section 4(b), the Secretary shall prepare and transmit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives providing recommendations for additions to or deletions from the list of archaeological protection sites set forth in subsection (a)(2).

(d) ADMINISTRATION.—(1) The Secretary, or the Secretary of Agriculture, where appropriate, in consultation and cooperation with affected Federal and State agencies and landowners, shall administer lands within the system in a manner that will provide for the protection, preservation, and interpretation of Mimbres cultural resources and to facilitate research activities associated with such resources.

(2) Any Federal land management plan providing for the use or management of any area within the protection system shall be reviewed and amended as necessary to bring such plan into conformity with this section.

(3) Non-Federal lands or interests therein may not be acquired for addition to the system.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary or the Secretary of Agriculture, where appropriate, may enter into cooperative agreements with other Federal, State, and local agencies, public and private entities, private landowners, and other persons for the purposes of administration, management, protection, research, and interpretation of sites within the system.

(2) Federal funds may be expended, subject to appropriation, on non-Federal sites through cooperative agreements with, and the consent of, the owners of such sites.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an Advisory Committee, composed of representatives of Federal and State government agencies, landowners within the monument, residents of the Mimbres and Gila River valleys, and other interested parties, to provide guidance in the preparation and implementation of the general management plan for the monument and the joint management plan for the archaeological sites protection system required by section 4(b).

(g) SAVINGS PROVISIONS.—Nothing in this Act shall be construed to affect the application of the Archaeological Resources Protection Act of 1979 to any lands, including lands within the system.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1528, the bill before us.

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

There was no objection.

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

Mr. Speaker, S. 1528, which passed the Senate on November 26, 1991, establishes a national monument and protection system for certain Mimbres culture sites in the State of New Mexico.

The Mimbres lived in the American Southwest between 200 and 1150 A.D. and are known for their black on white decorated pottery, as well as for their large Pueblo-like villages and extensive canal irrigation. Public Law 100-559 directed the National Park Service to conduct a study of the Mimbres culture. That study, completed in December of 1989, found the remaining identified Mimbres sites nationally significant and threatened by development and vandalism, and listed several alternatives for commemorating the Mimbres culture in southwestern New Mexico.

To recognize these nationally significant cultural resources and to provide for their protection and interpretation, S. 1528 would establish the Mimbres Culture National Monument, which would consist of approximately 959 acres at four identified sites in southwest New Mexico. The legislation also would establish a Mimbres culture archeological site protection system, consisting of 11 sites, primarily for protection and research purposes.

Mr. Speaker, the version I am bringing to the House today incorporates several changes made by the committee. Senator BINGAMAN, the sponsor of S. 1528, Representative RICHARDSON and others have been working to develop legislation which incorporates appropriate protection for the Mimbres resources with an understanding of the particular concerns of those who will be affected by this legislation.

Residents of the Mimbres valley have expressed concern about whether there will be sufficient public participation in the planning process and about some of the property proposed for the Mattocks site. As a result, language has been included directing the appointment of local residents to the advisory committee established in section 5, authorizing the advisory committee's input into both the general management plan for the monument and the joint management plan for the archeological sites, and modifying the boundaries of the Mattocks site which is part of the proposed monument. Because of the boundary modification, language has also been included to provide for administrative or public access to the site, and for alternative access to landowners.

Mr. Speaker, these are clearly endangered resources. I believe the bill we are bringing to the floor today offers effective protection for nationally significant resources which have been studied and found suitable and feasible for inclusion in the National Park System, and I urge my colleagues' support.

□ 1750

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

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

Mr. Speaker, I rise in opposition to S. 1528, a bill to establish a new monument in the State of New Mexico to preserve the Mimbres culture.

I join with the administration and the Member of the affected district, Mr. SKEEN, in opposing this bill and I do so for several important reasons.

First and most importantly, there are already thousands of Mimbres culture sites already permanently protected in public ownership under the management of the State of New Mexico, the Forest Service, the Bureau of Land Management, National Park Service and private foundations.

In fact, three of the four sites proposed in this new park are already in public ownership, including the site which the NPS states is the largest and best preserved Mimbres site in existence.

In other words, Mr. Speaker, there is no justification for creating this new park.

Second, I oppose this measure because of a costly $8 to $12 million museum/regional tourist center which is proposed for Silver City.

It appears to me that visitor center is the primary objective of this measure, in an attempt to attract tourist dollars into that town.

If this proposal was serious about protecting the best examples of Mimbres sites which are not currently in protected ownership, it would include sites very different from those in the measure before us today.

This measure has become very controversial in the State of New Mexico because of the proposed acquisition of the Mattocks site, which would involve the removal of about 20 private property owners.

Not only do a substantial majority of the 20 private property owners object to this measure, but so do the many potential neighbors in the immediate park vicinity who are very concerned about the everexpanding nature of our national parks.

It has been my experience on the Interior Committee that their apprehension is well founded; in this Congress alone, the Interior Committee has passed over 20 bills to expand existing units of the Park System at a cost of nearly $200 million.

Unfortunately, our majority was unable to agree with the very reasonable language which was suggested by the New Mexico delegation to resolve their concerns with respect to this bill.

Therefore, I ask my colleagues to join me in opposing this measure.

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, this bipartisan legislation, introduced by my colleagues from New Mexico, Senators BINGAMAN and DOMENICI, addresses the dire need to protect prehistoric Mimbres culture sites in our State—ancient sites clearly in imminent danger of destruction.

As we speak, these sites, which offer endless opportunities to learn about our past as New Mexicans and Americans, are being compromised by pothunting and looting. S. 1528, which establishes the Mimbres Culture National Monument, will protect these sites for current and future generations.

This legislation is a result of the National Mimbres Culture Study Act of 1988, a bipartisan effort passed by Congress that directed the National Park Service to conduct a study of Mimbres culture to determine its significance in illustrating and commemorating the prehistory of the Southwest, and to provide alternatives for preserving this culture. Through this study the Park Service clearly found that the ancient Mimbres sites located within boundary of S. 1528 are of national significance and merit protection.

Equally as important as protecting the vanishing symbols of prehistoric life in New Mexico is the effort made by Senator BINGAMAN to address the concerns of local landowners regarding the impact of S. 1528 on private property. The process up to this point has been extensive and accommodating to local residents. S. 1528 will not require anyone residing within the boundaries of the monument to leave their property, and assures that no lands will be added to the monument without consent of the landowner and authorization by Congress.

Despite these efforts, questions have been raised as to whether or not we can afford to establish the Mimbres National Monument. The real question is whether we can afford not to establish this monument, which will protect nationally significant archaeological sites, serve as an invaluable educational resource, and spur economic development through increased tourism in New Mexico.

S. 1528 has the support of the local and county chambers of commerce, major environmental groups such as the Sierra Club and the Wilderness Society, and the State of New Mexico.

Mr. Speaker, this is a good bill, not only for New Mexicans but for everyone. I urge my colleagues to support this effort.

Support this bipartisan legislation to preserve the legacy of New Mexico's most famous prehistoric culture.

It was passed unanimously by the Senate and the House Interior Committee, sponsored by Senators BINGAMAN and DOMENICI.

The Mimbres Indians of southwestern New Mexico left an enduring presence in their distinctive black and white pottery, dwellings, and other artifacts. But for many decades these ancient villages have been devastated by voracious and destructive grave robbing. This legislation is needed to put an end to looting and vandalism of Mimbres artifacts. S. 1528 will create a National Park Service unit to preserve and interpret these resources for future generations of New Mexicans.

The Mimbres Culture National Monument would include four nationally significant Mimbres archaeological sites and a centrally located visitor center/monument headquarters in Silver City, NM. The Mimbres National Monument will be a superb educational resource for area residents, children, and visitors—an opportunity to interpret and understand the day-to-day life of the Mimbres people.

The monument will benefit economic development and tourism, bringing jobs to Grant County. The monument will draw thousands of visitors to the area, fueling the local economy with outside dollars.

S. 1528 is supported by the following groups: Silver City/Grant County Chamber of Commerce, Sierra Club, the Wilderness Society, Grant County Commission, town of Silver City, New Mexico State Office of Cultural Affairs, New Mexico Archeological Council, and Silver City Main Street Project.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to our good friend and colleague, the gentleman from New Mexico [Mr. SKEEN], in whose district this project is located.

Mr. SKEEN. Mr. Speaker, notwithstanding the arguments you have heard in favor of this bill, I am sorry that I have to oppose this, because preserving the Mimbres culture is a very important thing. It can be done, but it can be done without overriding the property rights of individuals. I think that is a very important aspect of this bill, because 17 of the 21 people affected by this measure do not want to sell their property to the Federal Government; 17 of the 21 of the landowners affected by this legislation are opposed to the Federal Government taking their private land for the creation of this national monument.

I want to ensure that the Federal Government does not have the right or the authority to purchase private property that contains Mimbres sites except from willing landowners who want to sell that property.

The administration is strongly opposed to this bill, because it fails to protect sufficiently the interests of the private landowners both within and outside of the boundaries of the proposed monument.

This bill itself has created a tremendous furor in the Mimbres Valley amongst private landowners who happen to have sites that are considered to be of interest to the preservation of this culture.

The Mimbres Valley residents took a straw vote from three choices, and the three choices were to reject the controversial bill outright; second, to compromise by taking out the condemnation language; or, third, to accept the bill; 127 residents voted against the bill, 110 voted for the compromise, and 8 voted to accept the bill unchanged.

□ 1800

I suggested that early on the dropping of the language dealing with the condemnation of private property to acquire the so-called Mattocks site. This approach was rejected. We could preserve the Mimbres culture through existing federally owned facilities and save the taxpayers about $20 million.

There currently exists over 2,000 sites on the BLM and Forest Service land; in fact, the TJ Ruin site already has a visitors center, parking lot, easements, and a ranger station.

As a member of the Subcommittee on Interior Appropriations, I understand firsthand the very tight budget constraints that the agency is facing and the problems of properly funding existing national parks.

The gentleman from Colorado [Mr. HEFLEY], I think articulated that particular issue very well.

Mr. Speaker, by creating new parks, we are robbing our existing national

parks of the money they need and need desperately.

Finally, I am concerned that this legislation contains too many open-ended parameters for the future acquisition of sites for the interpretation of this culture.

I reluctantly have to oppose this bill, and I will ask for a vote.

I appreciate the opportunity to offer my thoughts and comments on the pending legislation, S. 1528, regarding the establishment of the Mimbres National Monument introduced by Senator BINGAMAN. This controversial legislation has infuriated the Mimbres Valley residents in my district due to the condemnation of private property of 17 landowners and the fear that the Federal Government will not stop there.

I want to ensure that the Federal Government does not have the authority to purchase private property that contains Mimbres sites except from willing landowners. After visiting the site last summer and discussing the issues with residents of the valley on numerous occasions, it is clear that there remain strong feelings within the Mimbres Valley that the Congress is forcing the acquisition of historic properties from private owners wanting to keep their lands.

Within the last few weeks the Mimbres Valley residents made their feelings official by taking a straw vote from three choices: reject the controversial Mimbres Culture National Monument Establishment Act, compromise, or accept the current legislation; 127 residents voted against the bill outright, 110 voted for a compromise which would take out the condemnation language, and only 8 people voted to accept the bill unchanged.

Due to the controversy surrounding the bill as currently drafted, I suggest dropping the language dealing with the condemnation of private property to acquire the controversial Mattox site. This approach was rejected by Senator BINGAMAN, the sponsor of the bill.

I believe we should take advantage of the fact that we could preserve the Mimbres culture through existing federally owned facilities. There currently exist over 2,000 sites on BLM and Forest Service land. In fact, the T.J. Ruin site already has a visitor center, parking lot, roads, easements, and a ranger station. It is unclear why we are advancing a measure which will add a third land management agency into the mix of administration of Mimbres sites and cost the taxpayers millions of dollars.

As a member of the Interior Appropriations Subcommittee, I understand first hand the very tight budget constraints that the agency is facing, and the problem of properly funding existing national parks. We must be able to afford the cost of purchasing these sites under increasingly tight budget constraints. By creating new parks, we are robbing our existing national parks of the money they need.

In addition, I am concerned that this legislation contains too many open-ended parameters for future acquisition of sites for the interpretation of this culture. I believe we should make the determination in consultation with the Mimbres Valley residents and hold the legislation to that amount.

Therefore, I ask that you reject this bill, S. 1528, as drafted, until an accommodation can be reached among the National Park Service, the Mimbres Valley residents and the congressional delegation.

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

Mr. Speaker, I confess to being somewhat confused about the administration's comments on this bill.

A public hearing on S. 1528 was held on May 21, 1992 before the Subcommittee on National Parks and Public Lands. At that time, the National Park Service testified in strong support of S. 1528. A thorough discussion of the sites to be included, their significance, and the suitability and feasibility of including them within a national monument was held. The National Park Service testified that these sites were chosen by an interdisciplinary planning team, including professional archeologists, on the basis of their research and visitor use potential. The Park Service further testified that the legislation before us today is—

> The result of an effective consultation process that included the New Mexico delegation, the National Park Service and other Federal agencies, the State of New Mexico, private landowners and interested citizens in the Silver City area."

Furthermore N.P.S. Director James Ridenour, in his May 21, 1992 prepared statement stated "we are pleased that the Senate passed this measure on November 26, 1991. We support enactment of S. 1528 if amended as we suggest herein." An eminent domain exception was not a request on May 21, 1992 or since then from the Park Service.

Now I have before me, from the Office of Management and Budget, a statement of administration policy opposing passage of S. 1528 because "it fails to protect sufficiently the interests of the private landowners both within and outside the boundaries of the prepared monument." That is the essence of the statement. No particular provision is cited to support this accusation, nor is there discussion on the bill itself, a bill the administration has expressed support for on at least two occasions—during testimony before the Senate Committee on Energy and Natural Resources and, of course, during the hearing my subcommittee held in May.

Apparently, the administration is confused not only about the provisions of this bill, but about their own position. In the 4 months since the hearing on this bill, I have heard of no administrative objection to its passage. Yet an obviously hastily prepared two sentence statement, sent to my office yesterday, claims that the administration opposes this bill. I am offended by this statement and by this administration's which tends to circumvent the public hearing process and to modify their position. I urge my colleagues to support this bill based on the long-standing and thoroughly researched support of this bill espoused by the administration in the subcommittee hearing.

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

Mr. VENTO. I yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the chairman of the subcommittee for yielding to me.

Mr. Speaker, I want to commend the chairman of the subcommittee and the gentleman from Colorado [Mr. HEFLEY], both for the work they have done. But if you think you are confused or that the administration is confused, you are right; I think everybody dealing with this particular topic, subject, issue, has thrown a little bit of confusing light or spin on it, including my good friend, the gentleman from New Mexico, BILL RICHARDSON, who in the last paragraph of his letter responding to some of the issues on this concern, wrote:

> Finally, the bill will be amended further in the House Committee on Interior and Insular Affairs, of which I am a member, to change the status of the controversial Mattocks site to a research site. This will be done to further accommodate the concerns of local residents.

Well, that did not happen. So, despite all the effort that has been done to accommodate these folks, there is still a lot of confusion about the land situation, particularly how you are going to acquire this land. Also, the appetite of the Park Service to acquire additional lands once it becomes situated.

I think that is what is causing the problem.

Mr. VENTO. I appreciate the gentleman's observation. Perhaps a closer reading of what has occurred—and I was happy to yield to the gentleman—would be helpful to the gentleman before a vote does take place.

But I will state for the record, and it is explicitly stated in the bill, that there is no attempt to expand the site other than coming back with legislation and, hopefully, with the consent of the landowner.

In fact, the legislation specifically states that.

As the gentleman knows, it is one of the key provisions that Senator BINGAMAN attempted to work out, and I think it was done satisfactorily.

Mr. SKEEN. Will the gentleman yield further?

Mr. VENTO. I yield to the gentleman.

Mr. SKEEN. I thank the gentleman for yielding further.

Mr. Speaker, the accommodation was very sincere and, I think, very appropriate. But that does not allay the fear of the people who have watched the Park Service in the past. And I think that is the problem.

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

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

Just a couple of points: As I understand this, this did start out as a good bipartisan effort. But that broke down in our committee. Seemingly, in our great desire to reach out like an octopus and grab every square foot of ground out there that might conceivably have some historical value, we have overextended ourselves.

Mr. Speaker, I have an article from the Silver City Daily Press, Silver City, NM, September 25, 1992, where Senator PETE DOMENICI, Republican of New Mexico, "has strong objections to an amendment made to the Mimbres monument bill passed by the congressional subcommittee Wednesday."

So, again, I think we screwed it up in committee. It was a bipartisan bill. Almost everybody was going along with it. It was being sought.

I would also like to share a brief statement from a letter that I have from the Office of Cultural Affairs, State of New Mexico, cultural affairs and historic preservation division, where they point out that within southwestern New Mexico there are over 3,500 archeological sites relating to the Mimbres culture from A.D. 200 to 1400.

They also point out that of these, 65 percent of these 3,500 sites are already owned by the Federal Government. Still, we reach out to grab and grab and grab some more and create the problem that Congressman SKEEN is trying to relate to.

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico, [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, first of all let me respond to my friend, the gentleman from Colorado: Senator DOMENICI is supporting this legislation. I am authorized to say this, although probably it should come better from others.

But he and Senator BINGAMAN are strongly in support of this legislation, as is the Silver City Grant County Chambers of Commerce, the Grant County Commission—these are local officials—the town of Silver City, the New Mexico State Office of Cultural Affairs, the New Mexico Archeological Council, the Silver City Main Street project.

Let me just state for the record the House bill is smaller in acreage than the Senate bill.

So, again, I respect my good friend, JOE SKEEN. There are some concerns by some landowners. But I think a major effort has been made to accommodate them. I think what we are talking about is preserving four nationally significant archaeological sites which are going to benefit economic development and tourism. Again, I just did not want to leave the impression that it is not a bipartisan effort, at least in the other body.

While I respect my good friend's view that there has been some division, I did want to put that on the record.

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

Mr. RICHARDSON. I yield to the gentleman.

Mr. SKEEN. I thank the gentleman for yielding.

Mr. Speaker, I would have been delighted to have made it a totally bipartisan action, but it did not work out that way because of the situation on this land. All the folks that are in favor of this are tourist-connected of one kind or another, I can understand that because that is money coming into those communities. I think it is very important that it does.

However, on the other hand, the people opposing it are the people who own the land. They own it. They do not want to lose it. They do not want to give it up.

I think their rights should be respected, and that is the point I am trying to make. If it had been an easier acquisition, it could have been totally bipartisan, I agree with you. I think this is an important issue, and culture maintenance and interpretation is extremely important. But on the other hand, people's rights to ownership of their lands, I think, is one of the sacred trusts that we have in this country.

□ 1810

Mr. RICHARDSON. Well, again, Mr. Speaker, I would just like to conclude by saying that it is bipartisan legislation. It does preserve the legacy of New Mexico's most famous prehistoric culture.

It passed unanimously in the Senate and in the House Committee on Interior and Insular Affairs.

It is an important piece of legislation.

Yes, the local residents, some have concerns. It is not perfect, but a majority of individuals in that county and the State, the elected officials, seem to support it.

Mr. Speaker, I would urge support for the legislation.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BILBRAY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1528, as amended.

The question was taken.

Mr. SKEEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

OLYMPIC NATIONAL PARK

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4489) to provide for a land exchange with the city of Tacoma, WA. as amended.

The Clerk read as follows:

H.R. 4489

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

TITLE I—LAND EXCHANGE WITH CITY OF TACOMA, WASHINGTON

SEC. 101. LAND EXCHANGE.

(a) IN GENERAL.—(1) If the city of Tacoma, Washington, in a manner consistent with this title, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands described in paragraph (3), the Secretary of the Interior (hereafter in this title referred to as the "Secretary") shall carry out such exchange as soon as is reasonably possible.

(2) The lands to be conveyed to the United States by the city of Takoma are approximately 45 acres owned by the State of Washington Department of Natural Resources located in the Soleduck and Quileute areas within the authorized boundary of Olympic National Park.

(3) The lands to be conveyed to the city of Tacoma are approximately 30 acres of land adjacent to Lake Cushman identified as lands to be transferred to the city of Tacoma as depicted on the map entitled "Proposed Boundary Revision Olympic National Park" and dated July 29, 1991. Such map, and a legal description of the lands to be conveyed to the city of Tacoma, shall be on file and available for public inspection with the Director of the National Park Service, Department of the Interior.

(b) CONDITIONS.—(1) Any exchange of lands pursuant to this title shall occur only if—

(A) the city of Tacoma demonstrates to the satisfaction of the Secretary that the city of Tacoma is able to deliver to the United States clear and unencumbered title to the lands identified in subsection (a)(2), and that after such exchange there will be no legal impediment to the management of such lands as part of Olympic National Park under all provisions of law applicable to Olympic National Park;

(B) the Secretary is reasonably satisfied that an environmental review of the Cushman Project (No. 460) sufficient to meet the requirements of law has been initiated;

(C) the city of Tacoma has entered into an enforceable agreement with the Secretary which provides that lands acquired by the city of Tacoma through an exchange under this title will be managed in a manner consistent with the management of those same lands during the time such lands were managed by the National Park Service; and

(D) the city of Tacoma offers, in good faith, to negotiate with the Skokomish Tribe regarding the impact of the Cushman Project

on fish, wildlife, estuary, and cultural resources, and to fund appropriate studies concerning such impacts (to be jointly administered by the city and the Tribe), to the extent that further information is needed to facilitate such negotiations and such information is reasonably obtainable.

(2) The land exchange authorized by this section shall be subject to the laws and regulations applicable to exchanges involving lands managed by the Secretary as part of the National Park System.

SEC. 102. BOUNDARY ADJUSTMENT.

At the same time that the Secretary exchanges lands pursuant to this title, the Secretary shall adjust the boundaries of Olympic National Park in the manner depicted on the map referenced in section 101(a)(3) so as to exclude from such unit of the National Park System the lands transferred to the city of Tacoma by the Secretary pursuant to such exchange.

SEC. 103. ADDITIONAL PROVISIONS.

Nothing in this title shall be construed—

(1) as approval or disapproval of any reservoir operating level for the Cushman Reservoir which, after a boundary adjustment under section 102, would not inundate any lands within any unit of the National Park System;

(2) to limit the right or ability of any party, including any Indian tribe and Federal Agency, to fully participate as intervenors or otherwise in any process relating to the Cushman Project (No. 460); or

(3) as limiting or otherwise affecting any rights by treaty, executive order, or Federal law of the Skokomish Tribe or any other Indian tribe, including (but not limited to) rights related to fishing or the use of water.

TITLE II—OLYMPIC EXPERIMENTAL STATE FOREST

SEC. 201. PURPOSE.

The purpose of this title is to assist the experimental management and research program being conducted by the State of Washington on State-owned trust lands on the western Olympic Peninsula in order to contribute to the conservation of the northern spotted owl, old growth ecosystems and fishery resources and to provide for a sustainable supply of timber and trust income in a manner that is consistent with these conservation objectives.

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) The term "conservation" means the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided by the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are no longer necessary. Such measures and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(2) The term "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

SEC. 203. MANAGEMENT AND RESEARCH PLAN FOR THE OLYMPIC STATE EXPERIMENTAL FOREST.

(a) PLAN DEVELOPMENT.—The State of Washington may develop and submit to the Secretary of the Interior a management and research plan for the Olympic Experimental State Forest that—

(1) is based upon the recommendations of the Commission on Old Growth Alternatives for Washington's Forest Trust Lands contained in the June 1989 final report of the Commission;

(2) is developed by the State land management agency in consultation with the State wildlife agency and the Olympic Natural Resources Center or a comparable research institution: *Provided, however*, That the research components of the plan shall be developed jointly by the State land management agency and the Olympic Natural Resources Center or a comparable research institution and in consultation with the State wildlife agency;

(3) provides for the close integration of research and management in the plan, and

(4) shall be accompanied by a draft of the detailed statement on the proposed actions under the plan required by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) PLAN CONTENTS.—(1) The plan shall provide for the conservation of the northern spotted owl on the Olympic Experimental State Forest and reflect scientifically sound ecosystem management principles designed to contribute to the conservation of fisheries, other sensitive species and the ecology of the forest generally.

(2) The plan shall contain the following elements:

(A) A framework for coordinated decision-making for implementing the plan among the State land management agency, the State wildlife agency and the Olympic Natural Resources Center or a comparable research institution.

(B) A detailed description of the individual elements of the management and research plan; the process for implementing and funding the plan and an allocation of responsibilities for plan implementation and enforcement.

(C) Findings of the State wildlife agency about the extent to which the plan will achieve the objectives in paragraph (1).

SEC. 204. PLAN REVIEW AND APPROVAL.

(a) PLAN REVIEW.—Upon submission of the management and research plan for the Olympic Experimental State Forest under section 203(a), the Secretary shall determine whether the plan—

(1) provides for the conservation of the northern spotted owl in the experimental forest; and

(2) is consistent with the final northern spotted owl recovery plan as it applies to the Olympic Peninsula or, in the absence of a final recovery plan, the draft northern spotted owl recovery plan dated April 1992 as it applies to the Olympic Peninsula.

(b) REVIEW AND PUBLIC COMMENT.—The Secretary shall after notice and public comment complete the review of the management and research plans within 90 days after the submission of the plan and supporting documentation by the State of Washington under section 203(a) or within such other period of time as is mutually agreeable to the Secretary and the State of Washington.

(c) APPROVAL.—If the Secretary determines that the management and research plan for the Olympic Experimental State Forest meets the standards of subsection (a), the Secretary shall approve the plan and so notify the State.

(d) RELATIONSHIP TO OTHER LAW.—If the State authorities identified by the plan as responsible for implementing it comply with their obligations under the approved plan, any activity conducted pursuant to it in the Olympic Experimental State Forest shall not be considered a prohibited taking of the northern spotted owl under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 4489, the bill now being considered.

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

There was no objection.

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

Mr. Speaker, H.R. 4489 is legislation introduced by Representative NORM DICKS to provide for a land exchange between the city of Tacoma, WA, and Olympic National Park.

The city of Tacoma operates a hydroelectric project which inundates a small portion of Olympic National Park. The city is seeking a long-term relicense of the facility. That portion of the project which encroaches on Olympic National Park land cannot be relicensed, so the city entered into negotiations with the National Park Service last year to find lands which may be appropriate for exchange.

H.R. 4489 as amended would authorize a land exchange in which the city of Tacoma would convey two inholdings consisting of approximately 45 acres within Olympic National Park to the National Park Service in exchange for the National Park Service conveying to the city of Tacoma approximately 30 acres near Lake Cushman. The lands to be given to the National Park Service are of greater value than the lands being exchanged and the National Park Service testified as to their importance in managing the park. Following the land exchange, the Secretary of the Interior would then modify the boundaries of Olympic National Park to reflect the results of the exchange.

The Interior Committee has worked closely with the author of the bill, the National Park Service, the Skokomish Indian Tribe and the city of Tacoma to work out a substitute amendment which addresses various concerns which were raised about the bill. The substitute before us today is a compromise bill which meets the concerns of all the parties involved. It will provide for the land exchange without prejudicing or limiting the involvement of any party to freely participate in the overall relicensing of the hydroelectric facility.

The bill before us today also incorporates the provisions of the bill H.R.

4615. This bipartisan bill passed the House on August 11 of this year by voice vote. This bill authorizes the State of Washington to submit to the Secretary of the Interior a management and research plan for the Olympic Experimental State Forest. The purpose is to explore forest management approaches which provide for sustainable timber yields and conservation of sensitive species and ecosystems. The bill only effects State owned forest lands.

Mr. Speaker, H.R 4489, as amended, resolves a longstanding problem between the city of Tacoma and the National Park Service and provides for an experimental program on a State forest which could provide valuable insights in complex forest issues in the Pacific Northwest. I urge Members to support the bill as amended.

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

Mr. Speaker, I rise in support of H.R. 4489 which authorizes a land exchange between the city of Tacoma, WA, and the Olympic National Park.

This legislation has been fully explained by Chairman VENTO. Although I support the bill, I must point out one concern about it.

I do not believe that this legislation should get involved, in any way, with the environmental review associated with the relicensing of the FERC permit for the Cushman Dam. the dam existed before the park was created and is located outside the park boundary. The FERC relicensing process is complicated enough without it getting new congressional mandates.

This legislation, and its accompanying report, should not address the FERC relicensing issue or any environmental review associated with that process.

Title II of this bill deals with the Olympic Experimental State Forest and is identical to a bill passed by the House last August, H.R. 4615. That legislation has strong bipartisan support in the committees on Agriculture and Merchant Marine as well as the Washington delegation. I have no objection to including that bill as title II to H.R. 4489.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. DICKS], the sponsor of the Tacoma legislation.

Mr. DICKS. Mr. Speaker, I rise to express my strong support for the bill under suspension, H.R. 4489, which will allow for a land exchange for the Olympic National Park related to the city of Tacoma's Cushman hydroelectric project.

I want to thank the very able chairman of the Interior Committee, the gentleman from California [Mr. MILLER], and the subcommittee chairman, the gentleman from Minnesota [Mr. VENTO], for their hard work and cooperation in getting this bill out of committee, and onto the floor. I also want to commend the ranking Republican member for his cooperation on this particular project as well.

This bill reflects good cooperation in the State of Washington among affected and concerned interests. I especially want to thank the Skokomish Tribe for its cooperation and support on the Cushman bill, as well as the city of Tacoma and our local utility, Tacoma City Light. I want to thank the Park Service, and particularly the supervisor of the Olympic National Park for her commitment to working out the concerns associated with this proposal.

This bill solves a problem for the city of Tacoma, it resolves concerns for the Olympic National Park, and it ensures that the interests of the Skokomish Indian Tribe are protected. Specifically, H.R. 4489 provides for the exchange of 45 acres of non-Federal land on the Olympic Peninsula in Washington State, located in the Soleduck and Quileute areas of the Olympic National Park, for 30 acres of Federal land overlapping Lake Cushman. The bill ensures that the land exchange and the accompanying title transfer occurs through the mutual consent and cooperation of the Department of Interior and the city of Tacoma.

Additionally, the bill allows for the city of Tacoma to work with the Skokomish Tribe and negotiate issues related to impacts of the Cushman project on fish, wildlife, and other natural resources. I would also add that the committee has done a fine job in showing sensitivity to the tribe's concerns with the FERC process. I am pleased that we have been able to work with the city of Tacoma and the Skokomish Tribe to develop report language accompanying this bill to ensure that nothing in the bill will in any way impede upon or shape the outcome of the FERC relicensing process related to the Cushman project.

I would also like to thank Chairman MILLER, Chairman STUDDS, and Chairman VENTO for agreeing to offer a floor substitute to this bill, which will allow for the inclusion of H.R. 4615, the Olympic Peninsula experimental forest bill. The Olympic experimental forest bill is very important to the State of Washington, and has the full support of our State's delegation.

The Olympic Peninsula experimental forest concept represents a creative attempt to address multiuse management concerns on the State land base on the Olympic Peninsula. The experimental forest is very promising for its potential to benefit timber-dependent communities such as Forks, Washington, and communities on the Olympic Peninsula are very supportive of what the State is attempting to achieve with the forest.

The concept of an experimental forest was initially recommended by the State's commission on old growth alternatives in 1989. The experimental forest concept represents an innovative approach to the ecological management of 260,000 acres of Washington State-owned trust land.

The proposed experimental forest lies on the western Olympic Peninsula, and contains most of the old growth forest remaining on State lands. Specifically, H.R. 4615 allows for the State of Washington to develop and submit to the Secretary of the Interior a management plan for the Olympic experimental State forest that is based on the recommendations of the commission on old growth alternatives, is developed by the State land management agency in consultation with the State wildlife agency and Olympic natural resources center, and provides for the close integration of research and management in the plan.

I ask that my colleagues support the Vento substitute, which includes both the Olympic National Park land exchange bill, H.R. 4489, and the Olympic experimental forest bill, H.R. 4615.

Mr. Speaker, I also want to thank the chairman for the courtesy of placing on this legislation the measure dealing with our experimental forests, which is very crucial to the future of our State and particularly our forest practices, and again I want to commend the gentlewoman from Washington [Mrs. UNSOELD] for her dedication and commitment to getting that legislation enacted. I am pleased to be a cosponsor of it. I just want to commend her again for the tremendous effort she made to get this bill through several committees and now we are sending it to the Senate with the help of our Senators, and Members of the other body. We hope we can enact both these bills as this session comes to an end.

Again I want to thank my friend and classmate, the gentleman from Minnesota [Mr. VENTO] for his help and cooperation on these two measures.

Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD], a major sponsor of the provision added to the Tacoma bill.

Mrs. UNSOELD. Mr. Speaker, I rise in support of this legislation to resolve an ongoing dispute over land occupied by the Cushman hydroelectric project within the Olympic National Park. I want to commend my friend and Washington State colleague, Mr. DICKS, for his work on this bill.

I also want to thank Chairman VENTO for allowing the text of H.R. 4615 to be included in the substitute. This is a bill I introduced to establish a 260,000 acre experimental forest on State-owned lands on the Olympic Peninsula. It was unanimously adopted by the House on August 11. The only change being made today is a clarification to ensure that the management plan for the experimental forest is consistent

with NEPA. My understanding is that, with this additional language, the other body is prepared to accept this proposal.

Mr. Speaker, the Olympic Experimental Forest bill will help develop a new generation of forest management methods designed to provide both sustainable harvests and healthy ecosystems for fish and wildlife. It provides an alternative to the save or sacrifice dichotomy we now face—an alternative to the choice between total preservation or clear cuts and plantations.

A lot of hard work by a lot of people in the Northwest has gone into the two provisions of the bill before us today and I urge its adoption.

Mr. SWIFT. Mr. Speaker, I would like to take this opportunity to express my support for H.R. 4489, a bill authorizing a land exchange between the Olympic National Park and the city of Tacoma Public Utilities. The bill is needed so that a boundary dispute within my district can be resolved. This dispute has been a continuing source of concern for the residents of Lake Cushman, as they have seen their property values affected and their recreational facilities threatened.

I believe that this bill represents a well balanced solution which protects the interests of the Lake Cushman residents, many whom are retired; the power consumers of the city of Tacoma, who depend on the lake's hydropower; and the Olympic National Park.

This legislation is supported by our colleagues in the Senate, Mr. ADAMS and Mr. GORTON. Similar legislation has passed the Senate Energy and Natural Resources Committee. The executive branch supports this legislation as the Park Service has been involved from the beginning in efforts to find a solution to the problem. The Olympic National Park gains 45 acres of sensitive lands which are currently in private hands, in exchange for the 30 plus acres which the Tacoma public utility receives from the park. The land which the utility gains will continue to be administered as it has in the past 30 years, except that it will now be owned by the utility.

I would like to thank Chairmen VENTO and MILLER for their prompt action on this legislation, and for their efforts to ensure that the legislation was responsive to all of the parties, including the Skokomish Tribe, which has some concerns with the FERC relicensing. I would also like to thank Congressman DICKS for introducing, and his efforts to pass, this bill.

Finally, I understand that the Interior Committee has added a slightly revised version of a previously passed House bill to H.R. 4489. The Olympic experimental forest bill, introduced by our colleague, Representative UNSOELD, passed the House on a voice vote. To facilitate its passage in the Senate, it is necessary for the House to repass this slightly changed version of this bill. I strongly support this legislation.

H.R. 4489 represents a win-win situation for all concerned, and I urge my fellow Members to pass this legislation today.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO], that the House suspend the rules and pass the bill, H.R. 4489, as amended.

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

A motion to reconsider was laid on the table.

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5118) to exchange lands within the State of Utah, between the United States and the State of Utah, as amended.

The Clerk read as follows:

H.R. 5118

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Utah Schools and Lands Improvement Act of 1992".

SEC. 2. UTAH-NAVAJO LAND EXCHANGE.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Navajo Nation certain lands belonging to the State of Utah, which comprise approximately 38,500 acres of surface and subsurface estate, and approximately an additional 9,500 acres of subsurface estate, as generally depicted on the map entitled "Utah-Navajo Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Navajo Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

SEC. 3. STATE LANDS WITHIN THE GOSHUTE INDIAN RESERVATION.

(a) ADDITION TO RESERVATION.—For the purpose of securing in trust for the Goshute Indian Tribe certain lands belonging to the State of Utah, which comprise approximately 980 acres of surface and subsurface estate, and an additional 480 acres of subsurface estate, as generally depicted on the map entitled "Utah-Goshute Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

(c) OTHER LAND.—(1) The following tract of Federal land located in the State of Nevada, amounting to about 5 acres more or less, together with all improvements thereon is hereby declared to be part of the Goshute Indian Reservation, and shall be held in trust for the Goshute Indian Tribe: Township 30 North, range 69 East, Lots 5, 6, 7, 9, 11, and 14 of Section 34.

(2) No part of such lands shall be used for gaming or any related purpose.

SEC. 4. IMPLEMENTATION.

The exchanges authorized by sections 2 and 3 of this Act shall be conducted without cost to the Navajo Nation and the Goshute Indian Tribe.

SEC. 5. STATE LANDS WITHIN THE NATIONAL FOREST SYSTEM.

(a) AUTHORIZATION.—The Secretary of Agriculture is authorized to accept on behalf of the United States the school and institutional trust lands owned by the State of Utah within units of the National Forest System, comprising approximately 76,000 acres as depicted on a map entitled "Utah Forest Land Exchange", dated May 18, 1992.

(b) STATUS.—Any lands acquired by the United States pursuant to this section shall become a part of the national forest within which such lands are located and shall be subject to all the laws and regulations applicable to the National Forest System.

SEC. 6. STATE LANDS WITHIN THE NATIONAL PARK SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior is hereby authorized to accept on behalf of the United States all school and institutional trust lands owned by the State of Utah located within all units of the National Park System located within the State of Utah on the date of enactment of this Act.

(b) STATUS.—(1) Notwithstanding any other provision of law, all lands of the State of Utah within units of the National Park System that are conveyed to the United States pursuant to this section shall become a part of the appropriate unit of the National Park System, and be subject to all laws and regulations applicable to that unit of the National Park System.

(2) The Secretary of the Interior shall, as a part of the exchange process of this Act, credit to the State of Utah the fair market value of 580.64 acres within Capitol Reef National Park that were conveyed by the State of Utah to the United States on July 2, 1971, for which the State has never been compensated. The fair market value of these lands shall be established pursuant to section 8 of this Act.

SEC. 7. OFFER TO STATE.

(a) SPECIFIC OFFERS.—Within 30 days after enactment of this Act, the Secretary of the Interior shall send the State of Utah a list of lands, or interests in lands, within the State of Utah for transfer to the State of Utah in exchange for the State lands and interests described in sections 2, 3, 5, and 6 of this Act. Such list shall include only the following Federal lands, or interests in lands:

(1) Blue Mountain Telecommunications Site, fee estate, approximately 640 acres.

(2) Beaver Mountain Ski Resort Site, fee estate, approximately 3,000 acres, as generally depicted on the map entitled "Beaver Mountain Ski Resort" dated September 16, 1992.

(3) The unleased coal located in the Winter Quarters tract.

(4) The unleased coal located in the Crandall Canyon tract.

(5) All royalties receivable by the United States with respect to coal leases in the Quitchupah (Convulsion Canyon) tract.

(6) The unleased coal in the Cottonwood Canyon tract.

(7) The unleased coal in the Soldier Creek tract.

(b) ADDITIONAL OFFERS.—(1) In addition to the lands and interests specified in sub-

section (a), the Secretary may offer to the State of Utah the right to receive a portion of the royalties receivable by the United States with respect to Federal geothermal, oil, gas, or other mineral interests in Utah which on August 1, 1992 were under lease and covered by an approved permit to drill or plan of development and plan of reclamation, were in production, and were not under administrative or judicial appeal.

(2) No offer under this subsection shall be for royalties aggregating more than 50 percent of the total appraised value of the State lands described in sections 2, 3, 5, and 6.

(3) The Secretary shall make no offer under this subsection which would enable the State of Utah to receive royalties exceeding a total amount of $25,000,000 unless such offer has been approved by enactment of an appropriate joint resolution of Congress.

(4) If the total value of lands and interests therein and royalties offered to the State pursuant to subsections (a) and (b) is less than the total value of the State lands described in sections 2, 3, 5, and 6, the Secretary shall provide the State a list of all public lands in Utah that as of August 1, 1992, the Secretary, in resource management plans prepared pursuant to the Federal Land Policy and Management Act of 1976, had identified as suitable for disposal by exchange or otherwise, and shall offer to transfer to the State any or all of such lands, as selected by the State, in partial exchange for such State lands, to the extent consistent with other applicable laws and regulations.

SEC. 8. APPRAISAL OF LANDS TO BE EXCHANGED.

(a) EQUAL VALUE.—All exchanges authorized under this Act shall be for equal value. No later than 90 days after enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, and the Governor of the State of Utah shall arrange for appraisal of the lands or interests therein involved in the exchanges authorized by this Act. A detailed appraisal report shall utilize nationally recognized appraisal standards including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.

(b) DEADLINE AND DISPUTE RESOLUTION.—(1) If after 2 years from the date of enactment of this Act, the State of Utah and the Secretary of the Interior have not agreed upon the values of the lands or interests therein involved in some or all of the exchanges authorized by this Act, notwithstanding any other provisions of law, either the State or the Secretary may bring an action for resolution of any values in dispute in any appropriate United States District Court, and such court shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(2) The United States District court shall be empowered to order appropriate actions by the Secretary, including the making of payments based on any additional offer made pursuant to section 7(b)(1) and the conveyance to the State of as many Federal lands or interests therein described in section 7 and offered by the Secretary as may be required to provide the State of Utah value equal to the value of the lands described in sections 2, 3, 5, and 6 that the State conveys to the United States as part of an exchange authorized by this Act.

(3) Any action provided for in this subsection can be filed with the court no sooner than 2 years and no later than 5 years after the date of enactment of this Act. Any decision of a District Court under this Act may be appealed in accordance with applicable laws and rules.

SEC. 9. TRANSFER OF TITLE.

(a) TERMS.—(1) The State of Utah shall be entitled to receive so much of those lands or interests in lands and additional royalties described in section 7 that are offered by the Secretary of the Interior and accepted by the State as are equal in value to the State lands and interests described in sections 2, 3, 5, and 6, but no payment shall be made with respect to an offer pursuant to section 7(b)(1) before October 1, 1995.

(2) For those properties where fee simple title is to be conveyed to the State of Utah, the Secretary of the Interior shall convey, subject to valid existing rights, all right, title and interest, subject to the provisions of subsection (b). For those properties where less than fee simple is to be conveyed to the State of Utah, the Secretary shall reserve to the United States all remaining right, title and interest of the United States.

(3) All right, title, and interest in any mineral rights described in section 7 that are conveyed to the State of Utah pursuant to this Act shall revert to the United States upon removal of minerals equal in value to the value attributed to such rights in connection with an exchange under this Act.

(4) If the State of Utah accepts the offers provided for in this Act, the State shall convey to the United States, subject to valid existing rights and in a form in accordance with the Department of Justice standards for the preparation of title evidence in land acquisitions by the United States, all right, title and interest of the State to all school and institutional trust lands described in sections 2, 3, 5, and 6 of this Act. Except as provided in section 7(b), conveyance of all lands or interests in lands shall take place within 60 days following agreement by the Secretary of the Interior and the Governor of the State of Utah, or entry of an appropriate order of judgment by the district court.

(b) INSPECTIONS.—Both parties shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. Responsibility for costs of remedial action related to materials identified by such inspections shall be borne by those entities responsible under existing law.

(c) CONDITIONS.—(1) With respect to the lands and interests described in section 7(a), enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(2) Development of any mineral interest transferred to the State of Utah pursuant to this Act shall be subject to all laws, rules, and regulations applicable to development of non-Federal mineral interests, including, where appropriate, laws, rules, and regulations applicable to such development within National Forests.

SEC. 10. MISCELLANEOUS.

(a) IN GENERAL.—As soon as practicable after enactment, a map and legal description of the lands added to the Navajo and Goshute Indian Reservations and all lands exchanged under this Act shall be filed by the appropriate Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and each such map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the offices of the Secretary of Agriculture and the Secretary of the Interior and the Utah offices of the appropriate agencies of the Department of the Interior and Department of Agriculture.

(b) PILT.—Section 6902(b) of title 31, United States Code, is amended by striking "acquisition." and inserting in lieu thereof "acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under Utah State law as of the date of enactment of the Utah Schools and Lands Improvement Act of 1992 if such lands had not been acquired.".

(c) INTENT.—The lands and interests described in section 7 are an offer related only to the State lands and interests described in this Act, and nothing in this Act shall be construed as precluding conveyance of other lands or interests to the State of Utah pursuant to other exchanges under applicable existing law or subsequent Act of Congress. It is the intent of Congress that the State should establish funding, or some other mechanism, to assure that counties within the States are treated equitably as a result of this exchange.

(d) COSTS.—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

(e) DEFINITIONS.—As used in this Act—

(1) the term "school and institutional trust lands" means those properties granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act;

(2) the term "public lands" has the same meaning as in the Federal Land Policy and Management Act of 1976;

(3) the term "State" means the State of Utah; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5118, the bill now under consideration.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

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

Madam Speaker, H.R. 5118 was introduced by Representative OWENS of Utah, who has worked tirelessly, along with the rest of the Utah delegation and the State administration, to enable us to bring it to the floor today.

The bill provides for transfer to the National Government of more than 202,600 acres of State-owned lands and minerals located within units of the National Park and National Forest Systems and Indian reservations in Utah, in return for which the State will receive equal value in the form of a mix of specified lands and interests in lands, and perhaps a limited share of royalties from existing, producing Federal mineral leases in Utah.

The bill is called the Utah Schools and Lands Improvement Act because the transfers to the State will benefit the school trust established at the time of Utah's Statehood and because the bill addresses land-management problems that have their roots in the history of the American people's public domain lands.

Madam Speaker, the current pattern of land ownership in Utah, as in other Western States, leaves much to be desired. The National Government granted more than 7.5 million acres of land to the new State of Utah at the time of its admission to the Union. These grants were intended to promote economic development and, through the largest of the several grants to the State, to benefit Utah's public schools.

Unfortunately, because the grants were based on the arbitrary straight lines of surveyors rather than on topography or the characteristics of the land, the result has been to fragment land ownership patterns in ways that present difficult problems for all concerned, especially for those responsible for managing the lands held by the State and National governments.

More than 10 years ago, under the leadership of Utah's former Governor, the late Scott Matheson, the State government developed a proposal—known as Project Bold—for broad-scale adjustment of the land-ownership pattern in Utah through the exchange of State lands for lands held by the National Government on behalf of the American people.

More recently, in 1988, the Subcommittee on National Parks and Public Lands held a field hearing in Salt Lake City on a bill introduced by the gentleman from Utah [Mr. OWENS] that would have established a process for implementing the sort of exchanges that Governor Matheson had envisioned.

At that time, the new State administration did not believe that legislation was necessary in order to complete extensive exchanges. Since then, however, Governor Bangerter and his administration have sought the assistance of Congress in resolving deadlocks, in particular over how to resolve disagreements as to the values to be assigned to the lands and interests proposed for exchange.

On July 17 of this year, a month after our subcommittee hearing on H.R. 5118, Governor Bangerter wrote to me and other members of the Interior Committee reporting that the State and the national administration had reached agreement on the outline of a legislative proposal. The bill now before us is based on that proposal, with important refinements developed by the Interior Committee.

The bill requires appraisal of all the lands and interests to be exchanged, and provides that disagreements over valuation can be resolved through judicial action in Federal court. It combines certainty about the State and national lands and minerals involved with administrative flexibility, by giving the Secretary of the Interior carefully limited discretion to include additional mineral royalties as part of the value to be given the State in return for the State's national park, national forest, and Indian reservation inholdings. Also included are important provisions to protect the environmental and other values of the national lands as well as to require that exchanges be fair to both the taxpayers of the Nation and the State of Utah.

Madam Speaker, the bill is explained in more detail in the report of the Committee on Interior and Insular Affairs. Therefore, I will conclude by saying that this is a very significant measure and by again expressing my appreciation for the hard work of the gentleman from Utah [Mr. OWENS] on this issue. Along with Representative HANSEN, our other Utah colleague on the Interior Committee, as well as Representative ORTON, Mr. OWENS deserves congratulations for this bill—a bill that honors the memory of Governor Matheson, a bill that is in the interest both of the State of Utah and the National Government, and a bill that deserves the approval of the House.

□ 1820

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise today in support of the Utah Schools and Lands Improvement Act of 1992. This is legislation that Gov. Norman Bangerter brought to Utah's congressional delegation earlier this year. I would like to thank my good friend Governor Bangerter for his tireless work on behalf of this bill.

When Utah was admitted into the Union in 1896, it was granted sections of land to be used for the support of its common schools. Subsequently, the United States created Federal reservations for native Americans, military purposes, development of forest lands, and preservation of uniquely beautiful lands in national parks and monuments. All of these reservations were superimposed upon the existing school trust lands, thereby complicating the management of the Federal reservations and curtailing the economic development of the State lands. The Federal Government has enjoyed the use of the State's trust lands inheld in its Federal reservations without providing compensation for that use.

Throughout the history of the State of Utah, succeeding Governor's have tried unsuccessfully to enter into negotiations with the Federal Government to resolve this dilemma. Now working with Utah's education, business, and environmental communities, we have found a solution that will allow the State to realize the purpose for which these trust lands were originally designated. The legislation the House considers today will authorize a value for value exchange of approximately 200,000 acres of school trust lands trapped within national parks, national forests, and Indian reservations for various Federal resources. The State would receive as much of the Federal resources as is required to equal the value of the State lands being offered. Value would be set by appraisals and reconciliation of appraisal differences.

Sections 2 and 3 of the bill authorize the acquisition of State trust lands within the Navajo and Goshute Reservations. The language in these sections is necessary to ensure that the lands are held in trust for the members of these native American nations. Section 5 describes the lands within the national forests in Utah that are to be conveyed to the United States. The total acreage is 76,000 acres. Section 6 authorizes the Secretary of the Interior to make similar exchanges of all school and institutional trust lands located within the National Park System.

It is important to note that this bill has been carefully crafted so that the sections describing the reservation, forest, and park lands are discrete and will allow separate negotiations to occur between the State and the appropriate Federal agency. This legislation authorizes a process for exchange, and does not mandate that exchange occur if the State and the Federal Government cannot reach agreement on the value of lands described. This point is critical to the State. The Federal Government has enjoyed the use of the State's trust lands inheld in its Federal reservations without providing compensation for that use. Subsequently, the school trust fund has suffered. Utah must be allowed to receive full value for these lands including, the unknown potential of the subsurface es-

tates within the Forest Service boundaries, in order to assure a fair and equitable exchange.

The bill also directs the Secretary of the Interior to offer identified lands and mineral royalties in exchange for Utah's inholdings. It further dictates that royalties may contribute no more than 50 percent of the total value of the State's lands. Further, the bill establishes a cap on the total amount of royalties that the State can receive.

Governor Bangerter and I share a great concern with this restriction in the bill. We have all expended great time and energy to bring this legislation to a successful end. The cap set by the Interior Committee would force the State to repeat this time consuming legislative process should the limit be exceeded. The requirements by which the Department of the Interior and the State will carry out the appraisals of the respective properties is spelled out very clearly in the bill. We believe these requirements eliminate the need for the additional review that would be triggered by the cap. This is an issue that I intended to address by amendment in full committee, but I have agreed to allow the legislation to go forward to keep this process moving as I believe the other body will resolve it.

This legislation is important to Utah's schools and equally as important to the improved management of the Nation's forests and parks. I would like to thank Secretary Lujan and Cy Jamison for their assistance. Their service and the help of countless others has been invaluable. I am sure that as this legislation moves forward we can work out the difference that I have outlined and bring it to a speedy and successful conclusion.

Madam Speaker, I reserve the balance of my time.

Mr. VENTO. Madam Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS] who has been, as I said, a tireless advocate and worker along with others in the delegation who have worked a long time toward this coming to fruition. I sincerely hope it makes it all the way.

Mr. OWENS of Utah. Madam Speaker, I thank the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee whose tireless efforts themselves are responsible for bringing up to this point, and, if we do succeed, it will be in large part due to his very serious and sincere assistance here.

This is a historic moment. Utah has several million acres of land which is checkerboarded within the Federal lands throughout our State. This is a historic bill because it is the first time that Congress has acted to move some of this land which the State owns into productivity, and this legislation, as my colleague, the gentleman from Utah [Mr. HANSEN], just mentioned and as the chairman of the subcommittee pointed out, will have an immense impact for the school children of the State of Utah, moving resources which lay fallow and unproductive into cash resources to assist in the payment of the costs of educating our school children.

Great credit goes properly to Governor Bangerter who was the originator of this legislation in which the delegation has unitedly gotten in back of to bring to fruition, as well as to Senator GARN and Attorney General Paul Van Damme, and to my colleague, the gentleman from Utah [Mr. HANSEN], and our third colleague, the gentleman from Utah [Mr. ORTON], great credit is also due, and I express appreciation to them and to the gentleman from California [Mr. MILLER] as well. Great and significant work has been done by Steve Boyden, Assistant Attorney General, Debby Turner running the Utah State office, my own administrative assistant, Scott Kearin, and the committee staff Dan Beard, Dan Adamson, and particularly Stan Sloss. They are responsible for bringing this legislation to the point of passage today.

With only 200,000 acres out of over 3 million possible acres of State land involved in this exchange, Madam Speaker, we are not going to answer every question about the future of Utah's State school lands in this bill. But this is an excellent start, and all of Utah's school children will benefit from this infusion of many millions of dollars into the State school trust from San Juan County in the canyons of southern Utah to Salt Lake County in the urban north.

This bill is also critically important environmentally and is supported by a coalition of environmental groups. It means better and more consistent management of natural lands in Utah. Without this legislation to eliminate the risk of commercial development in the parks and Forest Service lands, Madam Speaker, we could conceivably see another kind of golden arches someday among the sandstone formation of Arches National Park. This bill removes the Sword of Damocles of inappropriate State development from the heart of some of our most precious national park lands.

Most of all, Madam Speaker, this bill does mean much needed funds for Utah's school system and represents the partial realization of promises made to Utah by the Federal Government at the time of statehood, now nearly 100 years ago.

□ 1830

Utah has waited a long time for a solution to this perplexing dilemma. I thank the Committee on Interior and Insular Affairs for bringing this measure up today and for their support.

Mr. HANSEN. Madam Speaker, I thank Chairman VENTO and his staff for helping us on this matter. I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5118, as amended.

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

A motion to reconsider was laid on the table.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. McCathran, one of his secretaries.

SPRING MOUNTAINS NATIONAL RECREATION AREA ACT

Mr. VENTO. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4590) to establish the Spring Mountains National Recreation Area in Nevada, and for other purposes; as amended.

The Clerk read as follows:

H.R. 4590

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Spring Mountains National Recreation Area Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) NATIONAL FOREST LANDS.—The term "National Forest lands" means lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(2) RECREATION AREA.—The term "Recreation Area" means the Spring Mountains National Recreation Area established by this Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) preserve scenic, scientific, historic, cultural, natural, wilderness, watershed, riparian, wildlife, threatened and endangered species, and other values contributing to public enjoyment and biological diversity in the Spring Mountains of Nevada;

(2) ensure appropriate conservation and management of natural recreation resources in the Spring Mountains; and

(3) provide for the development of public recreation opportunities in the Spring Mountains for the enjoyment of present and future generations.

SEC. 4. ESTABLISHMENT OF RECREATION AREA.

(a) IN GENERAL.—Subject to valid existing rights, there is established the Spring Mountains National Recreation Area in Nevada.

(b) BOUNDARIES AND MAP.—The Recreation Area shall consist of approximately 316,000 acres of federally owned lands and waters in the

Toiyabe National Forest, as generally depicted on a map entitled "Spring Mountain National Recreation Area—Proposed", numbered NV-CH, and dated August 2, 1992.

(c) MAP FILING.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map of the Recreation Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(d) PUBLIC INSPECTION.—The map shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture.

(e) DISCREPANCIES.—In the case of any discrepancy between or among the acreage referred to in subsection (b) and the map described in subsection (b), the map described in subsection (b) shall control any question concerning the boundaries of the Recreation Area.

SEC. 5. MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the Recreation Area in accordance with the laws, rules, and regulations pertaining to the National Forest System and this Act to provide for—

(1) the conservation of scenic, scientific, historic, cultural, and other values contributing to public enjoyment;

(2) the conservation of fish and wildlife populations and habitat, including the use of prescribed fire to improve or maintain habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and the quality of ground and surface waters in accordance with applicable Federal and State law;

(4) public outdoor recreation benefits, including, but not limited to, hunting, fishing, trapping, hiking, horseback riding, backpacking, rock climbing, camping, and nature study;

(5) wilderness areas as designated by Congress; and

(6) the management, utilization, and disposal of natural resources in a manner compatible with the purposes for which the Recreation Area is established.

(b) HUNTING, TRAPPING, AND FISHING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall permit hunting, trapping, fishing, and habitat management within the Recreation Area in accordance with the laws of the United States and the State of Nevada.

(2) EXCEPTIONS.—The Secretary, after consultation with the Nevada Department of Wildlife, may designate zones where and periods when hunting, trapping, or fishing shall not be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) GRAZING.—The grazing of livestock may be permitted to continue pursuant to Federal law and subject to such reasonable regulations, policies, and practices as the Secretary considers necessary.

(d) PREVENTIVE MEASURES.—Nothing in this Act shall preclude such reasonable measures as the Secretary considers necessary to protect the land and resources from fire or insect or disease infestation in the Recreation Area.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—

(1) PROCEDURES.—Not later than 3 full fiscal years after the date of enactment of this Act, the Secretary shall develop a general management plan for the Recreation Area as an amendment to the Toiyabe National Forest Land and Resource Management Plan. Such an amendment shall reflect the establishment of the Recreation Area and conform to the provisions of this Act, except that nothing in this Act shall require the Secretary to revise the Toiyabe National Forest Land and Resource Management Plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974. The provisions of the national forest land and resource management plan relating to the recreation area shall also be available to the public in a document separate from the rest of the forest plan.

(2) CONTENTS.—The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) implementation plans for a continuing program of interpretation and public education about the resources and values of the Recreation Area;

(B) proposals for public facilities to be developed, expanded, or improved for the Recreation Area, including one or more visitor centers to accommodate both local and out-of-State visitors;

(C) plans for the management of natural and cultural resources in the Recreation Area, with emphasis on the preservation and long-term scientific use of archaeological resources, with priority in development given to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the Recreation Area;

(D) wildlife and fish resource management plans for the Recreation Area prepared in consultation with appropriate departments of the State of Nevada and using other available studies of the Recreation Area;

(E) recreation management plans for the Recreation Area in consultation with appropriate departments of the State of Nevada;

(F) wild horse and burro herd management plans for the Recreation Area prepared in consultation with appropriate departments and commissions of the State of Nevada; and

(G) an inventory of all lands within the Recreation Area not presently managed as National Forest lands that will permit the Secretary to evaluate possible future acquisitions.

(3) CONSULTATION.—The plans for the management of natural and cultural resources described in paragraph (2)(C) shall be prepared in consultation with the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.) and the Nevada State Department of Conservation and Natural Resources, Division of Historic Preservation and Archaeology.

(b) WILDERNESS STUDY AREAS.—

(1) RECOMMENDATIONS.—The general management plan for the Recreation Area shall include the recommendations of the Bureau of Land Management as to the suitability or nonsuitability for preservation as wilderness of the 89,270 acres identified as the Mt. Stirling, La Madre Mountains, and Pine Creek Wilderness Study Areas on the Bureau of Land Management Wilderness Status Map, dated March 1990.

(2) MANAGEMENT.—Pending submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, acting through the Chief of the Forest Service, shall manage the lands and waters within the wilderness study areas referred to in paragraph (1) so as to maintain their potential for inclusion within the National Wilderness Preservation System.

SEC. 7. ACQUISITION OF LANDS.

(a) IN GENERAL.—The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise any lands, or lesser interests therein, including mineral interests, water rights, and scenic easements, which the Secretary determines are needed for the purposes of this Act.

(b) EXCHANGES OUT OF FEDERAL OWNERSHIP.—Federally owned lands, waters, or interests in lands or waters located within the Recreation Area may not be exchanged except in connection with an exchange for lands, waters, or interests in lands or waters owned by the State of Nevada or a political subdivision of the State.

(c) INCORPORATION OF ACQUIRED LANDS.—Any lands, waters, or interests in lands or waters located within the Recreation Area that are acquired by the United States or administratively transferred to the Secretary after the date of enactment of this Act shall be incorporated into the Recreation Area and managed in accordance with the laws, rules, and regulations applicable to the National Forest System and the provisions of this Act.

(d) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9), where such boundaries are established for units of the National Forest System, such established boundaries shall be treated as if they were the boundaries of the National Forests as of January 1, 1965. Money appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein in furtherance of the purposes of this Act.

SEC. 8. WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights and except for lands described in subsection (b), all Federal lands within the Recreation Area and all lands, waters, and interests in lands and waters within the Recreation Area that are acquired by the United States after the date of enactment of this Act are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(b) EXCEPTION.—The lands referred to in subsection (a) are described as follows:

S½ Sec. 22, W½E½ and W½ Sec. 27, E½E½ Sec. 28, T 23 S, R 58 E, Mt. Diablo Meridian.

SEC. 9. COORDINATED MANAGEMENT.

The Secretary shall coordinate the management of the Recreation Area with the management of all proximate lands in a manner that best meets the present and future needs of the people of the United States.

SEC. 10. COOPERATIVE AGREEMENTS.

In order to encourage unified and cost-effective management and interpretation of natural and cultural resources in southern Nevada, the Secretary may enter into cooperative agreements with other Federal, State, and local agencies, and with nonprofit entities, that provide for the management and interpretation of natural and cultural resources in southern Nevada.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4590.

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

There was no objection.

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

Madam Speaker, H.R. 4590, the Spring Mountain National Recreation Area Act, which was introduced by Mr. BILBRAY, would designate a 316,000 acre national recreation area in the Spring Mountains of southern Nevada. All of the lands in the Spring Mountains unit of the Toiyabe National Forest would be included.

Located near two rapidly growing population centers, Las Vegas and Pahrump, the area receives approximately 5 million visitors a year. It is the only area readily accessible to southern Nevadans with forests and snow. In hearings before the Subcommittee on National Parks and Public Lands we received extensive testimony that the resources in the Spring Mountains are impressive. Dominating the area is Mount Charleston which, at 11,918 feet, is the third highest mountain in Nevada. Vegetation includes ancient bristlecone pines, which are the oldest living things on Earth, five vegetative life zones, and 48 plant species found nowhere else in the world. Wildlife includes elk, deer, wild turkey, bighorn sheep, golden eagles, wild horses and burros, and the Palmers chipmunk, which is found only in the Spring Mountains. Threatened species include the desert tortoise and Lahonton cutthroat trout. The Spring Mountains are also the beginning of the water aquifer for the city of Las Vegas.

I urge my colleagues to support this bill and protect this unique area.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of H.R. 4590, which would create a national recreation area in the Spring Mountains just outside of Las Vegas, NV.

This legislation has been fully explained by Chairman VENTO. I would like to add that this proposed NRA is entirely within the district of Mrs. VUCANOVICH, who is unable to be with us today.

Although Mrs. VUCANOVICH supports this bill, she is concerned that the committee made very little effort to modify boundaries to delete many of the 300 mining claims within the proposed NRA.

Although the committee did change some boundaries to exclude highly mineralized areas, it reduced the size of the NRA by less than 1 percent.

Unfortunately, this Congress far too often does not listen to the concerns of the Member representing their district when it comes to land use bills like this. Hopefully, the Senate will be better able to strike a balance between environmental protection and keeping highly mineralized areas open to potential mining.

I urge my colleagues to support H.R. 4590.

Madam Speaker, I reserve the balance of my time.

Mr. VENTO. Madam Speaker, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY], the principal sponsor of this important legislation.

Mr. BILBRAY. Madam Speaker, the Spring Mountains range is one of the two most important natural assets in southern Nevada. Over 20 million visitors are known to come to the Mount Charleston Area, one well-known destination point within the Spring Mountains.

For the 850,000 inhabitants of Las Vegas and the thousands of inhabitants in the growing city of Pahrump, the Spring Mountains offer Nevadans our only forest experience.

The National Park Service is facing a broad range of challenges to its dual mission of protecting our precious natural and cultural resources and providing visitor access.

Passage of this measure will provide great enhancements to Nevadans' existing recreational use of these public lands. Currently there are only 10 campgrounds and picnic sites that handle 2,500 persons at a time.

Without this new designation, under the present management methods these invaluable resources will not be adequately preserved for future generations.

I am proud to see this legislation come before this House. It is the result of a coordinated effort among many diverse interests within the greater Las Vegas community.

Over the last 5 years, citizens for a Spring Mountains National Recreation Area have worked to bring together a broad coalition in the hopes of establishing a national recreation area.

The goal of this legislation is to increase everyone's access to the Spring Mountains without sacrificing the quality of the outdoor experience.

With this legislation in place, the community can protect and preserve these natural resources from the encroachment of both man and the growing metropolitan areas directly to the west and east of this magnificent forest and range of mountains.

All of Nevada is grateful to the chairman and his hard-working staff for their support and guidance in bringing this measure forward.

Madam Speaker, I would like to enter into a colloquy with the gentleman from Minnesota [Mr. VENTO].

Mr. Chairman, I would like to clarify the impact that this national recreation area would have on my area. It is my intention that this new status would not cause the closing of any roads or trails to off-roaders, hikers, hunters, or horseback riders. Is that the chairman's understanding?

Mr. VENTO. If the gentleman will yield, yes, as long as these uses are consistent with the purposes of the national recreation area. There is nothing in this act that expressly directs the closing of roads.

Mr. BILBRAY. And further, that nothing in this act would be construed as forcing the U.S. Forest Service to leave open what it determines are unused or dangerous roads.

Mr. VENTO. Yes. The Forest Service will continue to have the authority to close unused and dangerous roads. The Forest Service's road policies will be governed by the provisions of the forest plan which will be amended to incorporate the provisions of this act.

Mr. BILBRAY. Madam Speaker, I thank the gentleman from Minnesota [Mr. VENTO], the chairman of the full committee, the gentleman from California [Mr. MILLER], and the rest of the members of the subcommittee and the full committee and staff, both on the minority and majority sides, for the courtesy of this hearing and for bringing this bill forward so fast. I also thank my colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], for her support of this legislation.

Mr. ALLARD. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4590, as amended.

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

The title of the bill was amended so as to read: "A bill to establish the Spring Mountains National Recreation Area in Nevada, and for other purposes."

A motion to reconsider was laid on the table.

QUINEBAUG AND SHETUCKET RIVERS VALLEY HERITAGE CORRIDOR

Mr. VENTO. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5423) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor, as amended.

□ 1840

The Clerk read as follows:

H.R. 5423

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1992".

SEC. 2. FINDINGS.

Congress finds that:

(1) The Quinebaug and Shetucket Rivers Valley in the State of Connecticut is one of

the last unspoiled and undeveloped areas in the Northeastern United States and has remained largely intact, including important aboriginal archaeological sites, excellent water quality, beautiful rural landscapes, architecturally significant mill structures and mill villages, and large acreage of parks and other permanent open space.

(2) The State of Connecticut ranks last among the 50 States in the amount of federally protected park and open space lands within its borders and lags far behind the other northeastern States in the amount of land set-aside for public recreation.

(3) The beautiful rural landscapes, scenic vistas and excellent water quality of the Quinebaug and Shetucket Rivers contain significant undeveloped recreational opportunities for people throughout the United States.

(4) The Quinebaug and Shetucket Rivers Valley is within a 2-hour drive of the major metropolitan areas of New York City, Hartford, Providence, Worcester, Springfield, and Boston. With the President's Commission on Americans Outdoors reporting that Americans are taking shorter "closer-to-home" vacations, the Quinebaug and Shetucket Rivers Valley represents important close-by recreational opportunities for a significant population.

(5) The existing mill sites and other structures throughout the Quinebaug and Shetucket Rivers Valley were instrumental in the development of the industrial revolution.

(6) The Quinebaug and Shetucket Rivers Valley contains a vast number of discovered and unrecovered Native American and colonial archaeological sites significant to the history of North America and the United States.

(7) The Quinebaug and Shetucket Rivers Valley represents one of the last traditional upland farming and mill village communities in the northeastern United States.

(8) The Quinebaug and Shetucket Rivers Valley played a nationally significant role in the cultural evolution of the prewar colonial period. Leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and early political development leading up to and during the War of Independence.

(9) Many local, regional and State agencies, businesses, and private citizens and the New England Governors' Conference have expressed an overwhelming desire to combine forces: to work cooperatively to preserve and enhance resources region-wide and better plan for the future.

SEC. 3. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the State of Connecticut the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this Act to provide a management framework to assist the State of Connecticut, its units of local and regional government and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret the significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley in the State of Connecticut.

SEC. 4. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The Boundaries of the Corridor shall include the towns of Ashford, Brooklyn, Canterbury, Chaplin, Coventry, Eastford, Franklin, Griswold, Hampton, Killingly, Lebanon, Lisbon, Mansfield, Norwich, Plainfield, Pomfret, Preston, Putnam, Scotland, Sprague, Sterling, Thompson, Voluntown, Windham, and Woodstock. As soon as practical after the date of enactment of this Act, the Secretary of the Interior shall publish in the Federal Register a detailed description and map of boundaries established under this subsection.

(b) ADMINISTRATION.—The Corridor shall be administered in accordance with the provisions of this Act.

SEC. 5. QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Commission (referred to in this Act as the "Commission"). The Commission shall assist appropriate Federal, State, regional planning organizations, and local authorities in the development and implementation of an integrated resource management plan for the lands and water as specified in section 3.

(b) MEMBERSHIP.—The Commission shall be comprised of 19 members appointed not later than 6 months after the date of enactment of this Act as follows:

(1) The Director of the National Park Service ex officio (or his delegate).

(2) 3 individuals nominated by the Governor and appointed by the Secretary, who shall be—

(A) the Commissioner of the Connecticut Department of Environmental Protection, or a person representing the interests of the Commissioner,

(B) the Chairman of the Connecticut Historical Commission or a person representing the interests of the Chairman, and

(C) the Commissioner of the Connecticut Department of Economic Development or a person representing the interests of the Commissioner;

(3) 6 individuals representing the interests of local government or regional planning organizations from Connecticut appointed by the Secretary after receiving recommendations from the Governor, of whom, 3 shall be representatives of the 3 regional planning organizations within the Corridor region and 3 shall be local elected officials from the region; and

(4) 9 individuals from the general public, who are citizens of the State of Connecticut, appointed by the Secretary, after receiving recommendations from the Governor, representing conservation, business, tourism, and recreational interests.

A vacancy in the Commission shall be filled in the manner in which the original appointments were made.

(c) TERMS.—(1) Members of the Commission shall be appointed for terms of 3 years and may be reappointed.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

(f) QUORUM.—(1) 8 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(g) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date on which its members are appointed, and shall meet at least quarterly at the call of the chairperson or 10 of its members. Meetings of the Commission shall be subject to section 552(b) of title 5, United States Code (relating to open meetings).".

(h) PROXY.—Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

SEC. 6. STAFF OF THE COMMISSION.

(a) IN GENERAL.—(1) The Commission shall have the power to appoint and fix compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the service of personnel detailed from the State, any political subdivision and regional planning organizations, and may reimburse the State, political subdivision, and regional planning organizations for those services.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS.—(1) The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and

under the same conditions as other departments and other agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed as a gift to the United States.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interest in real property in the Corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money that was given, appropriated, or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interest in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land management agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State of Connecticut, with any political subdivision, or with any person or organization. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, such political subdivision, or such person which may affect implementation of the plan referred to in section 8.

(i) ADVISORY GROUPS.—The Commission may establish such advisory groups as it deems necessary to ensure open communication with, and assistance from, the State, political subdivisions of the State, regional planning organizations and interested persons.

SEC. 8. DUTIES OF THE COMMISSION.

(a) PREPARATION OF PLAN.—Within 2 years after the Commission conducts its first meeting, it shall submit to the Secretary of the Interior and the Governor of Connecticut for review and approval a Cultural Heritage and Corridor Management Plan. The Plan shall be based on existing Federal, State, and local plans, but shall coordinate those plans and present a unified historic preservation, interpretation, and recreational plan for the Corridor. The plan shall—

(1) provide an inventory which includes any property in the Corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural or recreational significance;

(2) recommend advisory standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the Corridor;

(3) develop an historic interpretation plan to interpret the history of the Corridor;

(4) develop an inventory which includes existing and potential recreational sites which are developed or which could be developed along the Quinebaug and Shetucket Rivers and their surrounding areas;

(5) recommend policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Corridor's historical, cultural, recreational, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(6) detail ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this Act; and

(7) contain a program for implementation of the Plan by the State and its political subdivisions.

(b) IMPLEMENTATION OF PLAN.—After review and approval of the Plan by the Secretary and the Governor as provided in subsection (a), the Commission shall implement the Plan by taking appropriate steps to preserve and interpret the historic resources, develop the recreational resources of the Corridor and its surrounding area, and to support public and private efforts in economic revitalization, consistent with the goals of the Plan. These steps may include, but need not be limited to—

(1) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in preserving the Corridor and ensuring appropriate use of lands and structures throughout the Corridor;

(2) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in establishing, and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in developing recreational programs and resources in the Corridor;

(4) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the historical and architectural resources and sites in the Corridor;

(5) assisting the State and local governmental or regional planning organizations and nonprofit organizations in the restoration of any historic building in the Corridor;

(6) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the Plan;

(7) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the Plan, and to ensure appropriate use of lands and structures throughout the Corridor; and

(8) assisting the State and local governmental entities or regional planning organizations to ensure that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 9. TERMINATION OF COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring 5 years after the date of enactment of this Act.

(b) EXTENSION.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination referred to in subsection (a) if, not later than 180 days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purposes of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate; and

(3) the Secretary, in consultation with the Governor of Connecticut, approves such extension.

SEC. 10. DUTIES OF THE SECRETARY.

(a) APPROVAL OF PLAN.—The Secretary of the Interior, in consultation with the Governor of Connecticut, shall approve or disapprove a Plan submitted under this Act by the Commission not later than 60 days after receiving such Plan. The Secretary, in consultation with the Governor, shall approve a Plan submitted if—

(1) they find the Plan, if implemented, would adequately protect significant historical and cultural resources of the Corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor;

(2) they determine that the Commission held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the Plan; and

(3) the Secretary receives adequate assurances from appropriate State officials that the recommended implementation program identified in the Plan will be initiated within a reasonable time after date of approval of the Plan, and that such implementation program will ensure effective implementation of the State and local aspects of the Plan.

(b) DISAPPROVAL OF PLAN.—If the Secretary disapproves a Plan submitted to him by the Commission, he shall advise the Commission in writing of the reasons therefor and shall make recommendations for revisions in the Plan. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted to him.

(c) ASSISTANCE.—The Secretary of the Interior shall, upon request of the Commission, assist the Commission in the preparation and implementation of Plan.

SEC. 11. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission with respect to such activities and, to the maximum extent practicable, coordinate such activities; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the Corridor.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There is authorized to be appropriated $200,000 for fiscal year 1993 and $250,000 annually to the Commission to carry out its duties under this Act except that the Federal contributions to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

(b) SECRETARY.—There are authorized to be appropriated annually to the Secretary such

sums as may be necessary to carry out his duties under this Act.

SEC. 13. DEFINITIONS.

For purposes of this Act—

(1) The term "Commission" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Commission established under section 5.

(2) The term "State" means the State of Connecticut.

(3) The term "Corridor" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor established under section 3.

(4) The term "Plan" means the Cultural Heritage and Corridor Management Plan to be prepared by the Commission pursuant to section 8.

(5) The term "Governor" means the Governor of the State of Connecticut.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "regional planning organization" means each of the 3 regional planning organizations established by Connecticut State statute chapter 127 and chapter 50 (the Northeast Council of Governments, the Windham Regional Planning Agency or its successor, and the Southeastern Connecticut Regional Planning Agency or its successor).

The SPEAKER pro tempore (Mrs. UNSOELD). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 5423, the measure before us.

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

There was no objection.

Mr. VENTO. Madam Speaker, I yield myself such time as I may consume. Madam Speaker H.R. 5423 establishes the Quinebaug and Shetucket Rivers Valley National Heritage corridor consisting of 25 local towns in the Quinebaug and Shetucket Rivers Valley in Connecticut.

The Quinebaug and Shetucket Rivers Valley in northeastern Connecticut includes natural landscapes, parks, and other open spaces as well as mill villages, some native American and colonial archeological sites, and sites associated with the Great Awakening religious revival in colonial New England.

In January 1989, the National Park Service began a study of the feasibility and suitability of establishing the Quinebaug and Shetucket Rivers Valley Heritage corridor in northeastern Connecticut. The report has not been released but the legislation before us is based on the matters reviewed as part of that study.

H.R. 5423 provides for a 19-member commission, which with the assistance of the Secretary of the Interior, would develop and assist with the implementation of a management plan for the corridor, the purpose of which would be to protect and preserve the cultural, historical, and recreational resources of the valley. This bill authorizes the appropriation of $200,000 for fiscal year 1993 and $250,000 thereafter annually to the commission; Federal contributions to the commission could not exceed 50 percent of the annual cost to the commission of carrying out its duties.

The commission is composed of representatives from the Federal Government, from the State of Connecticut, from local government or regional planning organizations, and from the general public. Members of the commission will serve for 3 years, and may serve after the expiration of their term until a successor is appointed.

The commission is authorized to hold hearings but may not issue subpoenas and may receive donations and obtain property subject to the restrictions contained in the act. The commission is intended to serve a coordinating and consultive role in bringing together the many diverse elements involved in the preservation and use of the corridor, and is not a land management agency. While there will be instances when donations of real property are made or offered to the commission, the commission in turn will make such property available to the appropriate public agency for public purposes consistent with the purposes of this act.

The commission's primary purpose will be to prepare and assist in implementing a plan to assist appropriate Federal, State and local agencies in preserving and interpreting the historic and recreational resources of the canal and surrounding area. This plan should enhance existing policies and programs within the corridor and provide a focus to maximize preservation and interpretive efforts.

H.R. 5423 provides that the commission will terminate 5 years after the date of enactment, but may be extended for an additional 5 years if the secretary, in consultation with the Governor of Connecticut, and after a recommendation by the commission, approves such extension. The bill provides for secretarial review and approval of the plan prepared by the commission and directs the secretary to assist the commission in the preparation and implementation of the plan. Other Federal entities are directed to cooperate and coordinate with the secretary and the commission on activities undertaken by such Federal entity within the corridor.

Several changes have been made to the bill as introduced. With regard to the establishment of the commission, the bill now clarifies the appointment process for members of the commission and that members appointed to fill out unexpired terms will be appointed only for the remainder of the term. Further, it specifies that members appointed for definite terms may serve after the expiration of that term until a successor has taken office. The commission is also directed to hold its first meeting not later than 90 days after the date on which its members are appointed.

H.R. 5423, as amended, allows the commission to recommend rather than to establish advisory standards for the construction, preservation, restoration, alteration, and use of all properties within the corridor. The commission may be extended only if the secretary, after consulting with the governor of Connecticut approves the extension, and the secretary would approve or disapprove the commission's plan after consulting with the Governor of Connecticut. Section 11(b) of the original bill, which allowed the commission authority over Federal undertakings affecting the resources of the corridor has been deleted.

Madam Speaker, I believe the bill as amended will protect and preserve the Quinebaug and Shetucket Rivers Valley resources, and I urge my colleagues' support.

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

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

Mr. Speaker, I cautiously support H.R. 5423, which would study the establishment of the Quinebaug and Shetucket Rivers Valley Heritage corridor in Connecticut.

As I understand it, the gentleman from Connecticut hopes to preserve the attributes of these river valleys through an arrangement similar to the British national trust.

I have proposed that another river corridor, the Cache La Poudre, be studied for similar treatment.

And I might add, I look forward to working with the gentleman from Minnesota [Mr. VENTO] further on my bill.

In the past and at hearings earlier this year, the Park Service did not support H.R. 5423, because it had little experience with the concept described in the bill.

It is my understanding that the British trust relies heavily on private support and cooperation and tries to keep direct government involvement to a minimum.

If that is true, then perhaps this is a model that should be studied for use in this country.

For that reason, and with the hope we can protect private property rights and and keep acquisitions within bounds, I urge my colleagues to support H.R. 5423.

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

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

I wanted to just commend the gentleman from Connecticut [Mr. GEJDENSON], who is the principal sponsor of this measure. He has done yeoman service in terms of working on this issue which is obviously of extreme interest to his State and district.

Mr. Speaker, I praise the gentleman for that.

Mr. GEJDENSON. Mr. Speaker, I am pleased that this legislation to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in Connecticut comes before the House of Representatives today. I urge my colleagues to join me in support of this important and long-overdue legislation.

Designating the Quinebaug and Shetucket Rivers Valley as a Heritage corridor will provide a framework to assist State and local governments, and area citizens, in their efforts to develop and implement an integrated resource management program. The corridor will protect and preserve land, waters and historically significant structures along the Quinebaug and Shetucket Rivers.

As development pressures expand the suburbs of major cities in the Northeast—New York, Hartford, Providence, Worcester, Springfield, and Boston—it is increasingly important that we protect the most significant unspoiled and undeveloped areas in the Northeastern United States. The Quinebaug and Shetucket Rivers Valley is such an area.

This region of eastern Connecticut has remained largely unspoiled. In addition to the scenic rural landscapes, rivers, and open space, the valley also provides an outstanding cross-section of the evolution of inland New England from the pre-historic aboriginal period through the successive stages of agricultural settlement and industrialization. For example, the region's role in transformation from Puritan to Yankee, the Great Awakening religious revival, and the Nation's early political development up to and including the War of Independence illustrates its nationally significant cultural and historic role in the development of the United States.

There are also a significant number of historic and architecturally significant mill structures that played a vital role in the industrial development of the United States and which represent an extremely important part of the history of this country.

For many years, I have been working with the State and local governments, private individuals and groups to look for ways to preserve and protect this unique area. In 1988, as chairman of the Oversight and Investigations Subcommittee of the House Committee on Interior and Insular Affairs, I conducted a field hearing to assess the situation in Connecticut, the need for additional parks, recreation areas, and open space in Connecticut, and to look at various options for preservation.

In that hearing, 23 witnesses representing the environmental community, government, and industry expressed overwhelming concern about the State's lack of parks, recreational areas, and protected open space, and the loss of important natural, historic, and cultural resources.

The State of Connecticut lags far behind its northeastern neighbors in the amount of land set aside for public recreation. Northeastern States have an average of 294 acres of public recreation land 1,000 residents. Connecticut has less than 100 acres of public land per 1,000 residents, about one-third the average of the other Northeastern States. In addition, the amount of State-owned forest land in Connecticut has declined by 50 percent since 1950. The State of Connecticut ranks dead last among the 50 States in the amount of Federal lands such as national parks, forests, recreation areas, or wildlife areas within its borders. Until last year, when the Weir Farm in Wilton and Ridgefield was established as a National Historic Site, the State of Connecticut had no National Historic Site, the State of Connecticut had no National Park units. How, with authorization of the Weir Farm, there are 2 acres of land managed by the National Park Service.

Congress and the National Park Service have come up with an innovative, cost-effective and cooperative approach to natural resource protection called the National Heritage corridor. The Illinois and Michigan Canal Heritage corridor, which was established in 1984, the Blackstone River Valley National Heritage corridor established in 1986, and the Delaware and Lehigh Navigation Canal National Heritage corridor established in 1988, provide excellent models for cooperative Federal, State, local, and private partnerships for protecting important historical, cultural, and natural resources.

In times of tight budgets, we are no longer able to simply acquire huge tracts of land and expect that the resources will be adequately maintained and interpreted. The Heritage corridor designation can provide a cost-effective means of protecting important resources like the Quinebaug and Shetucket Rivers by working closely with the local communities and providing technical expertise in managing and interpreting historical and cultural resources.

Mr. Speaker, when we first came up with the idea to establish a national heritage corridor or some mechanism to preserve the important natural and historical resources in the region, we went to the local leaders to get their input, to further discuss what they wanted done and what kind of commitment were they willing to make. The response was quick and extremely positive. All of the local elected officials we talked to were enthusiastic about getting involved, and numerous groups approached me about what they could do to help. Within months, an independent Heritage corridor advisory committee formed itself, and through the leadership of John Boland, Marge Hoskins, Nini Davis, Bob Miller, and others, has been instrumental in moving this proposal forward on the local level. In many cases, after the initial excitement wears off and the real work begins, interest can fade. This group of exceptional and dedicated individuals was different. In the past several years, interest has never waned, and attendance at their monthly meetings has grown to the point where individual subcommittees were formed to take on specific projects.

During the course of our discussions with the advisory committee and State and local leaders, we looked at various State, Federal and local preservation options, but found them to be unacceptable or deficient. In particular, we investigated the Wild and Scenic River Program, but found it to be inadequate and too restrictive for our needs. It did not provide the kind of flexibility we need to protect the resources while protecting economic development opportunities near the rivers, due to the quarter-mile boundary requirements associated with it. It would also have restricted water resources activities, such as the flood control project on the Yantic River begun by the Soil Conservation Service in 1983. Worst of all, it would give significant control of eastern Connecticut's lands and water to the Federal Government at the expense of the local community.

Then, in 1989, at my request, the National Park Service staff toured the Quinebaug and Shetucket Rivers region to evaluate the feasibility of designating the area as a national heritage corridor. The Park Service staff concluded that the region had great potential for recreation and site interpretation due to its abundance of outstanding 19th century mills, mill villages, and beautiful landscapes, but that further study was required to adequately determine the area's potential for Federal designation. Later that year, the National Park Service North Atlantic Region began what was intended to be a 1-year study to determine an appropriate and effective resource management strategy suited to the needs of the region's resources and its people. Unfortunately, now 3 years later, that study has not been completed or released. Even after numerous requests to the Secretary of Interior and the Undersecretary for Fish, Wildlife and Parks, the Park Service continues to delay with little prospect that the study will ever be completed.

Mr. Speaker, we tried to proceed with this project by the book. We waited 3 years for the 1-year study to be completed, but unfortunately the Park Service continued to play games. Every several months they would promise that the study would be ready soon. After 3 years, we have been more than patient. It is unfortunate that the Park Service continues to stall on this project. Time and again, we in the Interior Committee consider legislation to designate areas as nationally significant, and each time, the administration objects. This time, we tried to play by their rules, but it is now extremely clear that no report will come.

Thus, I am pleased that the Congress is acting on this legislation today. The people of Connecticut have worked very hard, researching and supporting this designation, and it is time for us to recognize this area. During the Columbus Day weekend in October 1991, more than 4,000 people came to Walking Weekend events throughout the corridor, to draw attention to the important resources of the Quinebaug and Shetucket Rivers Valley. Attendance far exceeded anyone's expectations, and at nearly every event, coordinators ran out of handout materials, providing further evidence of the strong support for the project. The Walking Weekend will be held again this year.

Some critics may contend that the Quinebaug and Shetucket Rivers Valley was not the first industrial area, it is not the most important recreation area, and it may not contain the oldest archeological resources. And while it could be hard to dispute that, what makes the Quinebaug and Shetucket Rivers Valley so important is that no other area has the vast combination of resources enjoyed by this area.

Several years ago, the President's Commission on Americans Outdoors reported that families are taking shorter vacations and depending more and more on close-to-home

recreation options. The Quinebaug and Shetucket region would provide that to a significant population of the country. One in 12 people live near eastern Connecticut, situated along a major urban corridor and within driving distance of metropolitan areas such as New York, Boston, Hartford, New Haven, Springfield, and Worcester.

Within the Quinebaug and Shetucket Rivers Valley, you will find the birthplace of Revolutionary War hero Nathan Hale, the site of the first silk mill in America, the site of one of the largest 18th century cotton mills, the first paper mill in the Colonies, the site of the first cut nail manufacturing facility in North America, and the birthplaces of Samuel Huntington and William Williams, both signers of the Declaration of Independence.

You will also find the Prudence Crandall House in Canterbury, where in 1833, Prudence Crandall opened the first teacher training school for black girls. The trouble that she faced became world renowned and she was a symbol for the abolitionist movement in the United States.

The Quinebaug and Shetucket Rivers Valley was the area where Uncas, most well-known from the book "Last of the Mohicans" by James Fennimore Cooper, lived and died. Uncas Leap or Yantic Falls in Norwich was the site of the famous battle between the Mohegan Indians and the Narragansett Indians of Rhode Island.

Furthermore, and of particular interest to me, is the recreational potential of the area. There are an almost unlimited number of undeveloped or underdeveloped recreational opportunities. In recent years, the State of Connecticut has done a tremendous job in improving the water quality of a good part of both the Quinebaug and Shetucket Rivers, making the area prime for swimming, fishing, canoeing, and boating. In addition, there are numerous areas that are excellent for hiking as well as for the development of scenic, natural, and historic trails.

If this area had just a few of these important resources, it might be a manageable project for the State or local governments to handle. However, with so many important sites to manage, mills to restore, recreational areas to develop, historic sites, mills and houses to interpret, this is a job that far exceeds the expertise and resources of the State or local governments. However, designation of this area as a national heritage corridor would be a cooperative and extremely cost-effective way to do it.

This legislation has gained widespread support, having been unanimously endorsed by the Heritage Corridor Advisory Committee. It has also been endorsed by the Governor and the State of Connecticut, the Northeastern Connecticut Council of Governments, the Windham Regional Planning Agency, the Southeastern Connecticut Regional Planning Agency, the Northeast Connecticut Visitors District, the Quinebaug Rivers Association, the Windham Textile and History Museum, the Association of Northeastern Connecticut Historical Societies, and other environmental and historic preservation groups.

Mr. Speaker, designation of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor is an extremely important measure. Through this bill, we will be able to preserve and protect important resources, maintain local control and involvement, encourage local economic development in an area that has been hard hit by defense spending cuts, while establishing a cooperative framework for regional collaboration and protecting important natural, historic, cultural, archaeological, and recreational resources. I urge my colleagues to adopt this important legislation.

Finally, I wish to thank members of the House Committee on Interior, specifically Congressmen MILLER, YOUNG, VENTO, KOSTMAYER, and RHODES, and their staff for their hard work and assistance in bringing this bill to the floor today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. BILBRAY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5423, as amended.

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

A motion to reconsider was laid on the table.

AUTHORIZING CONVEYANCE OF LANDS IN LIVINGSTON PARISH, LA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1439) to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA, as amended.

The Clerk read as follows:

S. 1439

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

TITLE I—LAND CONVEYANCE

SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) there is a history of adverse claims and title confusion relating to certain lands in Livingston Parish, Louisiana, arising from private land claims predating the Louisiana Purchase;

(2) numerous parties have in good faith placed valuable improvements upon such lands in the belief that they owned such lands; and

(3) the public interest will be best served by clarifying the uncertainty of title by conveying the interest of the United States in such lands to those affected parties.

SEC. 102. CONVEYANCE OF LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the reservation in subsection (b), the United States hereby grants all right, title, and interest of the United States in and to certain lands in Livingston Parish, Louisiana, as described in section 103, to those parties who, as of the date of enactment of this Act, would be recognized as holders of a right, title, or interest to any portion of such lands under the laws of the State of Louisiana, but for the interest of the United States in such lands.

(b) RESERVATION OF MINERAL RIGHTS.—The United States hereby excepts and reserves from the provisions of subsection (a) of this section, all minerals underlying such lands, along with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary of the Interior may prescribe.

SEC. 103. DESCRIPTION OF LANDS TO BE CONVEYED.

The lands to be conveyed pursuant to this title are those lands located in section 37, township 5 south, range 4 east, St. Helena Meridian, in Livingston Parish, Louisiana.

TITLE II—PORT CHICAGO NATIONAL MEMORIAL

SEC. 201. SHORT TITLE.

This title may be referred to as the "Port Chicago National Memorial Act of 1992".

SEC. 202. FINDINGS.

The Congress hereby finds that—

(1) the Port Chicago Naval Magazine, located in Contra Costa County, California, served as the major West Coast munitions supply facility during World War II, during which time the facility played a critical role in the success of the war effort;

(2) on July 17, 1944, an explosion at Port Chicago, the origin of which has never been determined, resulted in the deaths of 320 officers and sailors, the largest domestic loss of life during World War II, and the injury of many others; and

(3) it is fitting and appropriate that the site of the Port Chicago Naval Magazine, which is currently included in the Concord Naval Weapons Station, be designated as a National Memorial to commemorate the role of the facility during World War II, to recognize those who served at the facility, and to honor the memory of those who gave their lives and were injured in the explosion on July 17, 1944.

SEC. 203. PORT CHICAGO NATIONAL MEMORIAL.

(a) DESIGNATION.—In order to recognize the critical role Port Chicago, located at the Concord Naval Weapons Station in Contra Costa County, California, played in the Second World War by serving as the main facility for the Pacific Theater and the historic importance of the explosion which occurred at the Port Chicago Naval Magazine on July 17, 1944, such Naval Magazine is hereby designated as a National Memorial, to be known as the Port Chicago Naval Magazine National Memorial. The Secretary of the Interior shall take appropriate action to assure that the Memorial is announced in the Federal Register and that official records and lists are amended, in due course, to reflect the inclusion of this memorial along with other national memorials established by an Act of Congress.

(b) MARKER.—The Secretary of the Interior, with the concurrence of the Secretary of Defense, is authorized and directed to place at the site the Port Chicago Naval Magazine National Memorial, as designated under subsection (a), an appropriate plaque or marker commemorating the critical role Port Chicago played in the Second World War and the historic importance of the explosion which occurred at that location on July 17, 1944. The plaque or marker shall include a listing of the names of those who lost their lives during the explosion.

(c) PUBLIC ACCESS.—The Secretary of the Interior shall enter into a cooperative agreement with the Secretary of the Navy to provide for public access to the Memorial.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gen-

tleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, S. 1439 as passed by the Senate would remove clouds from the title to about 640 acres of lands in Livingston Parish, LA, that have long been occupied by private parties by eliminating any possibility that the United States might be deemed to be the owner of the surface estate. In the Interior Committee, the bill was amended so as to also designate the Port Chicago Naval Magazine, in Contra Costa County, CA, as a national memorial.

Sometime prior to 1853, the lands in Louisiana affected by S. 1439, which are currently occupied by some 15 parties, evidently were entered and claimed by a William Kinchen. However, according to the Bureau of Land Management [BLM], no confirmation of this claim has ever been found and no patent was ever issued to convey the land out of Federal ownership.

The General Land Office and BLM have several times considered applications for approval of the Kinchen claim or issuance of a patent for the lands involved, and apparently no further administrative process is available to provide the occupants with clear title.

Title I of the bill as reported would eliminate any Federal interest in the surface of these lands, while retaining all minerals there in Federal ownership.

Title II of S. 1439 consists of the text of the bill House Joint Resolution 306 as approved by the House on June 29, 1992, designating the site of the Port Chicago Naval Magazine a national memorial.

The Port Chicago Naval Magazine was the site of the U.S. Navy's major west coast munitions supply facility during World War II. On July 17, 1944, an explosion killed 320 sailors and officers, the largest domestic war-related loss of life during World War II. Another 390 men were injured. The U.S. Navy continues to operate a munitions facility at the site in Contra Costa County, CA, and provides escorts for visitors who wish to view the scene of the explosion. The Navy also holds a memorial service annually in memory of those who died as a result of the explosion.

This title designates the site of the Port Chicago Naval Magazine, currently included in the Concord Naval Weapons Station, a national memorial. A plaque or marker would be placed at the site commemorating the Second World War and the historic importance of the explosion and resulting loss of life which occurred at that location July 17, 1944. The Secretary of the Interior is directed to enter into a cooperative agreement with the Secretary of the Navy to provide for public access to the site.

The eloquent and moving testimony given at the hearing on House Joint Resolution 306 indicates the importance of this memorial to the survivors of the explosion and to the families of those who were killed at Port Chicago. This memorial is an appropriate recognition of the sacrifices made by those who served at Port Chicago and I urge the passage of the bill, as amended.

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

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

Mr. Speaker, I rise in support of title I of S. 1439, which clears up title problems for about 640 acres of lands in Livingston Parish, LA. Title I is very similar to legislation introduced last year by Mr. BAKER of Louisiana and was the subject of a hearing last fall by the Subcommittee on National Parks and Public Lands. It is noncontroversial legislation that is supported by the administration.

Title II of this bill, which was added just recently, would designate the Port Chicago Naval Magazine as a national memorial. This site, which is currently part of the Concord Naval Weapons Station, is where an explosion on July 17, 1944, occurred and resulted in deaths to workers contributing to the war effort.

Title II raises several concerns. First, it is unclear what role the Secretary of the Interior will have in visitor use management. Second, since this is an active military base with restricted public access for security reasons, I wonder just how much public use will be allowed.

I rise in support of S. 1439 but hope the Senate will delete title II.

Mr. MILLER of California. Mr. Speaker, today, the House is considering S. 1439 to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA. Title II would designate the Port Chicago National Memorial in my district to honor the memory and contributions of those who served as the naval magazine. Most of the munitions supplying the Pacific Fleet during World War II were loaded onto ships at Port Chicago.

By designating the Port Chicago National Memorial we will pay homage to the 320 men who died in a cataclysmic explosion that caused the greatest domestic loss of life during World War II. On July 17, 1944, two ships—the E.A. Bryan and the Quinalt Victory—exploded. The blast was equivalent to 5 kilotons of TNT, on the same order of magnitude as the atomic bomb dropped a year later on Hiroshima. The cause of the explosion remains unanswered today.

Everyone on the pier and aboard the ships was killed instantly. Of the 320 deaths, more than 200 were black Americans. This disaster alone accounted for over 15 percent of the total black American naval casualties during the war.

Today, the Port Chicago site is the home of the Concord Naval Weapons Station. There is a small local memorial, and a newly dedicated chapel. But there is no recognition by the people of the United States of the historic role Port Chicago played in the battle for peace, and no monument to salute the hundreds who gave their lives, and who still bear the scars of that terrible night in July 1944.

Title II designates a simple memorial listing the names of those killed during the explosion. The memorial will not impede or restrict the Navy's effort to utilize the Concord Naval Weapons Station. In keeping with the security needs of the base, visitors will continue to be required to seek permission to view the memorial during the hours it is open.

By establishing a national memorial at Port Chicago, we will honor the contributions made by the Port Chicago sailors and by many others who served and sacrificed at home during World War II.

I appreciate Chairman VENTO's efforts on behalf of the Port Chicago National Memorial and encourage my colleagues to support S. 1439.

Mr. BAKER. Mr. Speaker, S 1439 is legislation establishing land ownership rights for residents in Livingston Parish, LA. While this legislation is not of national significance, it is of vital importance to the people of Livingston Parish. The residents of section 37 have disputed claims that date back to the Louisiana Purchase, and this dispute must finally be settled once and for all.

In the settlement of the Louisiana Purchase in 1803, the United States agreed to recognize title to the land derived from the British, French, and Spanish governments. Commissioners were appointed to investigate claims by individuals to specific lands, report on their validity and recommend whether Congress should confirm the claims.

The private claim of William Kinchen, the original owners of section 37 property, was investigated but never included in the report to Congress. Certain historical records indicate that the omission was an oversight and that Kinchen had qualified as an actual settler for confirmation.

Because no records exist transferring title of the land to private ownership, the area technically remains the property of the Federal Government. Officials with the U.S. Interior Department's Bureau of Land Management attempted to find an administrative solution to the problem; however, the Color of Title Act remedy did not apply to section 37.

The residents of section 37 have paid for this land, built their homes on it, paid local taxes, and made improvements to this land only to find out that they do not own it. These families have waited long enough to gain clear title to their land.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill S. 1439, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA, and for other purposes.".

A motion to reconsider was laid on the table.

□ 1850

DISTRICT OF COLUMBIA LAND EXCHANGE; REGULATION OF ADVERTISING IN PARKS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5906) to direct the Secretary of the Interior to exchange certain lands with the District of Columbia and to regulate advertising and related commercial activities in the National Park System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5906

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

SECTION 1. ADVERTISING AND RELATED COMMERCIAL ACTIVITIES.

(a) PROHIBITION.—Advertising, commercial notices, and similar commercial activities including (but not limited to) oral, written, or graphic statements or any physical structure, display, or model, presented or developed in any manner with the purpose of soliciting public attention to and promoting the benefits of a particular commercial product, service, or facility, or a group of products, services, or facilities, normally available for purchase in the commercial retail marketplace shall not be allowed in the National Park System (as defined by section 2 of the Act of August 8, 1953 (16 U.S.C. 1c)), except as provided for in subsection (b).

(b) ADVERTISING AND COMMERCIAL NOTICES.—The Director of the National Park Service may give permission for advertising or commercial notice within an area of the National Park System if the Director finds the advertising or commercial notice to be desirable and necessary for the convenience and guidance of park visitors and—

(1) the advertising or commercial notice is for a product, service, or facility available within such park area; or

(2) the advertising or commercial notice is contained in a publication the primary purpose of which is to familiarize visitors with a national park program, activity, or resource, and any such advertising or commercial notice is for a locally available product, service, or facility.

Any such permission shall be in writing. Nothing contained in this subsection is intended to curtail the display, sale, or distribution of newspapers, magazines, theater programs, and similar printed material under the terms of a properly executed concessions permit or contract or a cooperating association agreement.

SEC. 2. RECOGNITION.

Appropriate and limited public acknowledgement of a donor or sponsor's contribution to a specific program, activity, or event in an area of the National Park System may be given on a case-by-case basis to a donor or sponsor only if the program, activity, or event furthers the purposes of the park area, and the recognition is determined to be appropriate.

SEC. 3. ENDORSEMENT.

An advertising, commercial notice, or recognition may not state or otherwise imply National Park Service endorsement of a product, service, or facility.

SEC. 4. ORGANIZED ACTIVITIES AND SPECIAL EVENTS.

Organized activities or special events within an area of the National Park System may only be allowed pursuant to a permit. Such permit may only be issued if there is an appropriate association between the park area and the activity or event and when it can be determined that the organized activity or special event does not—

(1) damage, harm, or destroy the area's resources or values;

(2) pose a risk of damage to any property or endanger public health or safety;

(3) unduly interfere with normal park operations or visitor use; or

(4) result in significant conflict with other uses.

SEC. 5. PROMULGATION OF REGULATIONS.

Within one year after the date of enactment of this Act, the Director of the National Park Service shall promulgate regulations to implement the requirements of this Act.

The SPEAKER pro tempore (Mr. BILBRAY). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5906, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 5906, as introduced directed the Secretary of the Interior to exchange the William Fitzgerald Tennis Stadium for other lands in the District of Columbia and placed restrictions on commercial activities in units of the National Park System. It was amended by the Committee on Interior and Insular Affairs to delete the stadium transfer.

I have been—and remain—very concerned about the incursion of commercialism fostered by this administration at Rock Creek, one of our oldest national parks. By allowing the tennis tournament activities and the advertising that accompanies it in Rock Creek and by promulgating a special regulation to legalize such advertising this administration has changed a fundamental and longstanding policy regarding our national parks.

I have also been concerned about the lack of local control over the stadium and its activities. To this end I proposed transferring the stadium to the District of Columbia. I continue to believe that would be the best course to pursue. But the lateness of the session and the inability of the key players to reach agreement on the management of the stadium pursuant to such transfer makes such an approach infeasible. For now the tennis stadium transfer is deleted but I intend to address the issue at a later date.

The restrictions on advertising and commercial activities remain in the bill. Without such restrictions I believe that the National Park System is at risk of being exploited with more and more commercial ventures. I also want to note that the test of an appropriate association between a park and an event is not intended to end all historic activities that occur on park lands, such as the July 4th celebration or the black family reunion at the National Mall, but to ensure that inappropriate events not directly related to parks not be added. Each such event, no matter how worthy it may be, creates further demands on scarce park resources and may actually damage park resources as well. We need to focus National Park Service efforts on the primary purposes of parks—the preservation and interpretation of their precious resources—and not let the National Park Service focus its efforts elsewhere to the detriment of those primary purposes. Mr. Speaker, I support H.R. 5906, as amended, and recommend its adoption by the House.

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

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

Mr. Speaker, while I share the concerns of the chairman with respect to ensuring that commercialism does not overtake our national parks, and would be pleased to join him in a more general statute outlining such congressional intent, I must join with the administration in opposing this measure before us today.

It is apparent that this legislation was developed in response to a number of commercial activities associated with events held at the William Fitzgerald Tennis Center in Rock Creek Park.

While I would agree with concerns which have been surfaced about the nature of some of the commercial activities associated with those events, I am very concerned that this hastily considered generic legislation would un-

necessarily outlaw many suitable visitor activities at parks throughout the country.

While Mr. VENTO accurately states that this bill is largely based on existing NPS regulations and policies, he deletes the fact that the NPS is currently reviewing portions of those regulations which have proven unworkable.

I do not understand the need for many of the statutory restrictions contained in this measure, for example:

Why should we enact a statute prohibiting a park from handing out literature which presents the recreation opportunities at a park in an overall regional context?

Why should we place such tight restrictions on making available literature on food and lodging outside the park, which nonlocal visitors would likely be unaware of and which could help reduce the congestion in the park itself?

Further, this legislation advances the agenda of the many environmentalists who want to limit legitimate public use of our parks.

Section 4 of the bill would appear to prohibit such ongoing charitable, recreational, and celebratory events as the Marine Corps Marathon, the annual Christmas Parade in Harper's Ferry, and the African-American Parade at Independence Hall.

While the report of the majority attempts to exclude from operation of the statute certain categories of events which could otherwise be barred based on a reading of the bill itself, it is notable that this exemption is limited to traditional events.

In other words no new events would be permitted.

Based on these many problems with the wording of this text, I must conclude that the detailed nature of these restrictions would be far better presented in regulations than in law.

Therefore, I hope my colleagues would join me in opposing this measure.

Ms. NORTON. Mr. Speaker, I am pleased to rise in support of this important legislation that my distinguished colleague Congressman BRUCE VENTO has worked tirelessly to bring to this floor today. This bill has a long and arduous history, part of which involves one of this city's loveliest natural settings, Rock Creek Park.

As the chairman of the Subcommittee on National Parks and Public Lands and a staunch defender of the integrity of the National Parks System, Chairman VENTO has demonstrated deep and well-justified concern about the dramatic increase in commercial advertising in the national parks.

Chairman VENTO's interest in this issue was heightened, no doubt, when the Department of the Interior issued a special directive several years ago allowing corporate and promotional advertising campaigns in the national parks. Since that time there has been an unprecedented and dramatic rise in the level of commercial activity in our Nation's parks. In the District of Columbia in particular, there has been significant commercial activity at the William G. Fitzgerald Tennis Stadium in Rock Creek Park, drawing the consternation of residents who live near the park and those who seek to preserve the parks for their intended use. I wish to personally thank my thoughtful and committed colleague, BRUCE VENTO, for the consideration he has consistently shown to the District and its residents with regard to Rock Creek Park and other parks in the Nation's Capital.

I strongly support this legislation. The situation in my own district has illustrated the danger of letting commercial activity get out of hand. If there are no clear parameters for commercial activity, there are always those who will seek profits to the detriment of and, indeed, in violations of the underlying purpose of our National Park System. While some limited commercial advertising may be useful and therefore permissible, our national parks should not just be treated as large empty spaces to post billboards.

This legislation takes a well-reasoned approach, generally prohibiting advertising and commercial activities, but allowing the Director of the National Park Service to grant exceptions under specific circumstances. Most importantly, this legislation serves to protect the Nation's parks from further commercial intrusions of the kind we've witnessed here in the District of Columbia.

I commend Mr. VENTO for his diligent efforts and urge my colleagues to support H.R. 5906.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill (H.R. 5906), as amended.

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

The title of the bill was amended so as to read: "A bill to regulate advertising and related commercial activities in the National Park System, and for other purposes.".

A motion to reconsider was laid on the table.

DESIGNATION OF SEGMENTS OF GREAT EGG HARBOR RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5853) to designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System as amended.

The Clerk read as follows:

H.R. 5853

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

SECTION 1. DESIGNATION.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"( ) GREAT EGG HARBOR, NEW JERSEY.—39.5 miles of the main stem to be administered by the Secretary of the Interior in the following classifications:

"(A) from the mouth of the Patcong Creek to the mouth of Perch Cove Run, approximately 10 miles, as a scenic river;

"(B) from Perch Cove Run to the Mill Street Bridge, approximately 5.5 miles, as a recreational river;

"(C) from Lake Lenape to the Atlantic City Expressway, approximately 21 miles, as a recreational river; and

"(D) from Williamstown-New Freedom Road to the Pennsylvania Railroad right-of-way, approximately 3 miles, as a recreation river, and

89.5 miles of the following tributaries to be administered by the Secretary of the Interior in the following classifications:

"(E) Squankum Branch from its confluence with Great Egg Haroor River to Malaga Road, approximately 4.5 miles, as a recreational river;

"(F) Big Bridge Branch, from its confluence with Great Egg Harbor River to headwaters, approximately 2.2 miles, as a recreational river;

"(G) Penny Pot Stream Branch, from its confluence with Great Egg Harbor River to 14th Street, approximately 4.1 miles, as a recreational river;

"(H) Deep Run, from its confluence with Great Egg Harbor River to Pancoast Mill Road, approximately 5.4 miles, as a recreational river;

"(I) Mare Run, from its confluence with Great Egg Harbor River to Weymouth Avenue, approximately 3 miles, as a recreational river;

"(J) Babcock Creek, from its confluence with Great Egg Harbor River to headwaters, approximately 7.5 miles, as a recreational river;

"(K) Gravelly Run, from its confluence with Great Egg Harbor River to Pennsylvania Railroad Right-of-Way, approximately 2.7 miles, as a recreational river;

"(L) Miry Run, from its confluence with Great Egg Harbor River to Asbury Road, approximately 1.7 miles, as a recreational river;

"(M) South River, from its confluence with Great Egg Harbor River to Main Avenue, approximately 13.5 miles, as a recreational river;

"(N) Stephen Creek, from its confluence with Great Egg Harbor River to New Jersey Route 50, approximately 2.3 miles, as a recreational river;

"(O) Gibson Creek, from its confluence with Great Egg Harbor River to First Avenue, approximately 5.6 miles, as a recreational river;

"(P) English Creek, from its confluence with Great Egg Harbor River to Zion Road, approximately 3.5 miles, as a recreational river;

"(Q) Lakes Creek, from its confluence with Great Egg Harbor River to the dam, approximately 2.2 miles, as a recreational river;

"(R) Middle River, from its confluence with Great Egg Harbor River to the levee, approximately 5.6 miles, as a scenic river;

"(S) Patcong Creek, from its confluence with Great Egg Harbor River to Garden State Parkway, approximately 2.8 miles, as a recreational river;

"(T) Tuckahoe River (lower segment) from its confluence with Great Egg Harbor River

to the Route 50 bridge, approximately 9 miles, as a scenic river;

"(U) Tuckahoe River, from the Route 50 Bridge to Route 49 Bridge, approximately 7.3 miles, as a recreational river; and

"(V) Cedar Swamp Creek, from its confluence with Tuckahoe River to headwaters, approximately 6 miles, as a scenic river.".

SEC. 2. MANAGEMENT.

(a) DUTIES OF SECRETARY.—The Secretary of the Interior shall manage the river segments designated as components of the National Wild and Scenic Rivers System by this Act through cooperative agreements with the political jurisdictions within which such segments pass, pursuant to section 10(e) of the Wild and Scenic Rivers Act, and in consultation with such jurisdictions, except that publicly-owned lands within the boundaries of such segments shall continue to be managed by the agency having jurisdiction over such lands.

(b) AGREEMENTS.—(1) Cooperative agreements for management of the river segments referred to in subsection (a) shall provide for the long-term protection, preservation, and enhancement of such segments and shall be consistent with the comprehensive management plans for such segments to be prepared by the Secretary of the Interior pursuant to section 3(d) of the Wild and Scenic Rivers Act and with local river management plans prepared by appropriate local political jurisdictions in conjunction with the Secretary of the Interior.

(2) The Secretary of the Interior, in consultation with appropriate representatives of local political jurisdictions and the State of New Jersey, shall review local river management plans described in paragraph (1) to assure that their proper implementation will protect the values for which the river segments described in subsection (a) were designated as components of the National Wild and Scenic Rivers System. If after such review the Secretary determines that such plans meet the protection standards for local zoning ordinances specified in section 6(c) of the Wild and Scenic Rivers Act, such plans shall be deemed to constitute "local zoning ordinances" and each township and other incorporated local jurisdiction covered by such plans shall be deemed to constitute a "village" for the purposes of section 6(c) (prohibiting the acquisition of lands by condemnation) of the Wild and Scenic Rivers Act.

(3) The Secretary of the Interior shall biennially review compliance with the local river management plans described in paragraph (1) and shall promptly report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate any deviation from such plans which could result in any diminution of the values for which the river segment concerned was designated as a component of the National Wild and Scenic Rivers System.

(c) PLANNING ASSISTANCE.—(1) The Secretary of the Interior may provide planning assistance to local political subdivisions of the State of New Jersey through which flow river segments that are designated as components of the National Wild and Scenic Rivers System, and may enter into memoranda of understanding or cooperative agreements with officials or agencies of the United States or the State of New Jersey to ensure that Federal and State programs that could affect such segments are carried out in a manner consistent with the Wild and Scenic Rivers Act and applicable river management plans.

(2) For purposes of the planning assistance authorized and reviews required by this subsection, there are hereby authorized to be appropriated not to exceed $70,000 annually.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5853, the legislation now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 5853, by Representative HUGHES, would designate as components of the National Wild and Scenic Rivers System almost 130 river miles of the Great Egg Harbor River and its tributaries in the State of New Jersey.

The Great Egg Harbor River drains portions of the Pinelands National Reserve, in New Jersey. All waters in the Pinelands have been designated by the Environmental Protection Agency as outstanding National resource waters, to be protected from any change in quality.

Legislation enacted in 1986 directed study of the Great Egg Harbor River for possible inclusion in the National Wild and Scenic Rivers System. In January 1991, the National Park Service reported the results of the study.

The studied segments of the river and its tributaries were found eligible for wild and scenic river designation, and designation was recommended for most of the Great Egg Harbor River and its tributaries.

As recommended in the studies, the bill would add 39.5 miles of the Great Egg Harbor River and 89.5 miles of its tributaries to the National Wild and Scenic Rivers System, specifying which segments would be managed as scenic and which as recreational rivers.

The Interior Committee adopted one amendment to conform the management provisions of the bill with other similar legislation, and to explicitly provide that approved local river management plans will, as provided by section 6(c) of the wild and scenic rivers, have the effect of prohibiting any Federal condemnation of land.

Mr. Speaker, this is a good bill that represents the outcome of many years of dedicated work by the gentleman from New Jersey [Mr. HUGHES]. He deserves our thanks for making it possible to bring forward this important measure for protection of this river system, with this many outstanding natural and other values. I urge the approval of the bill as amended.

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

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

Mr. Speaker, I rise in support of H.R. 5853, a bill to designate 129 miles of the Great Egg Harbor River and tributaries as units of the Wild, and Scenic River System.

The gentleman from Minnesota has adequately explained the details of this measure.

I am aware that the administration does not support this measure, but their reason for opposition is based on the fact that a formal recommendation has not been transmitted to Congress rather than questions regarding the merits of the bill.

I would only note that it is commendable that the chairman has adopted the suggestions of the bill's sponsor and the local persons who argued before the committee that there should be no authority for condemnation included in this bill.

That departure from ordinary committee language certainly facilitated the passage of this measure and would have resolved major problems with such other measures as the Niobrara River which we considered earlier this session.

I can only hope the chairman will continue to endorse this approach for designation of future rivers which are substantially privately owned.

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES], the sponsor of this legislation, whom I want to credit not just for the legislation but also for the study that initiated it. I hope we can see this legislation through this session.

Mr. HUGHES. Mr. Speaker, first let me thank the distinguished subcommittee chairman for his splendid cooperation and work. He and his staff put out more legislation, minority staff, probably in this subcommittee than any other committee of the Congress, and it is quality work. I thank the gentleman and the ranking Republican for expediting this in the closing hours of this session.

Mr. Speaker, I rise in support of H.R. 5853, legislation which I introduced to designate some 129 miles of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.

This wild and scenic designation assures the long-term protection of unique natural resources through sound, locally implemented river management plans. Only the most select free-flowing rivers that have outstanding natural, cultural, or recreational values make up the Wild and Scenic System.

In 1986, I, along with my Senate colleagues, sponsored legislation authoriz-

ing the National Park Service to study the eligibility of these rivers and their tributaries for inclusion into the National System. After 6 years of study, the National Park Service found that all segments of the river were eligible for designation under the Wild and Scenic System.

Indeed, the Great Egg Harbor River is one of New Jersey's most magnificent treasures. Rising in Berlin Township and flowing south through Camden and Atlantic counties, the river forms an integral part of the pinelands ecosystem and of the rich culture history of southern New Jersey.

This region provides important habitat for a wide variety of animals, birds, and plants, including such rare and endangered species as the sensitive joint vetch, barratt's sedge, the bald eagle and the peregrine falcon.

This river is also one of the longest canoeable rivers in the pinelands and is well known for its fishing, boating, and recreational activities. Furthermore, there are many sites of cultural and historical interest along the river corridor including the remains of the iron and shipping industry.

The local communities have shown their commitment to the preservation of this very special resource. Now, the onus is on Congress to enact this legislation so that the river will be managed in such a way as to conserve the attributes for which it is being designated.

I commend BRUCE VENTO, chairman of the National Parks and Public Lands Subcommittee and Mr. MILLER, chairman of the Interior and Insular Affairs Committee for bringing this legislation forward today.

I am very excited about the designation of the Great Egg Harbor River, New Jersey's first wild and scenic river, and I solicit my colleagues' support for this legislation. Indeed, support for this bill is an opportunity to preserve one of the truly unique watersheds of the east coast.

□ 1900

People think of New Jersey as what they see from the turnpike, exit 6, exit 7. They do not think of New Jersey as having such treasures. They do not think of New Jersey as having water that is so pure that it is drinkable, and as southern New Jersey grows and prospers it is important that we preserve that quality of life, and this will help us do that. So I thank you.

A lot of people along the way are responsible for this. I mentioned my colleagues in the Congress. I want to thank the committee staff, Stanley Sloss for his work in moving this through the process. And I want to thank Ashley Evans of my staff for her work. I want to thank the late Warren Fox who had a dream many years ago of preserving this river. He loved the Great Egg Harbor River. And also Julie Akers of the Great Egg Watershed Association, and on and on I could go with the number of people that made this possible.

Mr. Speaker, it is a good bill, and I urge my colleagues to support it.

Mr. VENTO. Mr. Speaker, I commend this bill to my colleagues.

Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore. (Mr. BILBRAY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5853, as amended.

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

A motion to reconsider was laid on the table.

MINOR BOUNDARY ADJUSTMENT AND MISCELLANEOUS PARK AMENDMENTS ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2563). to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes as amended.

The Clerk read as follows:

S. 2563

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1992".

TITLE I—SANDY HOOK UNIT OF GATEWAY NATIONAL RECREATION AREA

SEC. 101. MARINE ACADEMY AGREEMENT.

(a) IN GENERAL.—In order to further the revitalization, rehabilitation, and utilization of Fort Hancock within the Sandy Hook Unit of Gateway National Recreation Area, the Secretary of the Interior may enter into an agreement with the Monmouth County Vocational School District or a successor (referred to in this title as the "District"), to permit the use by the District of properties situated along Gunnison Road and Magruder Road for the purpose of developing and operating, without cost to the National Park Service, a secondary school program to be known as the Marine Academy of Science and Technology.

(b) DESIGN OF FACILITIES.—The design of new facilities and landscape improvements, and the rehabilitation of existing facilities for school and administrative use, shall be subject to the approval of the Director of the National Park Service. In determining whether to approve the design and rehabilitation, the Director shall use standards for rehabilitation and National Park Service guidelines and policies that are approved by the Secretary of the Interior.

SEC. 102. REVERSION.

If the properties, facilities, and improvements referred to in section 101 are not used by the District for a secondary school program, the agreement authorized by section 101 shall be terminated and all use of the properties, facilities, and improvements shall revert, without consideration, to the National Park Service.

SEC. 103. REIMBURSEMENT.

(a) REHABILITATION.—As a condition of entering into the agreement authorized by section 101, the Secretary of the Interior may—

(1) accept reimbursement expenses, of not more than $500,000, to cover the cost of rehabilitating other property within the Sandy Hook Unit of Gateway National Recreation Area for park uses that are displaced from facilities used by the District under the agreement authorized by section 101; or

(2) require the District to rehabilitate other property for the park uses—

(A) under the direction of the National Park Service; and

(B) at a cost of not more than $500,000.

(b) FEES FOR SERVICES.—The Director of the National Park Service may collect and retain reasonable fees for services provided to the District by the National Park Service, including alarm monitoring, permit compliance, fire and police protection, and snow removal.

TITLE II—CLARIFICATION OF AUTHORITY TO COOPERATE WITH NON-FEDERAL ENTITIES IN THE CONDUCT OF RESEARCH CONCERNING UNITS OF THE NATIONAL PARK SYSTEM

SEC. 201. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

(a) IN GENERAL.—Section 3 of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following: "(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System and, pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

(b) REPORT.—Within six months after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing legislative and administrative recommendations for improving the science and research programs of the National Park Service which addresses the deficiencies in those programs discussed in the 1992 National Research Council report entitled "Science and the National Parks" and the 1992 National Park Service report entitled "National Parks for the 21st Century; the Vail Agenda".

TITLE III—MUSEUM PROPERTIES IN THE NATIONAL PARK SYSTEM

SEC. 301. FUNCTIONS OF SECRETARY OF THE INTERIOR.

The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

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

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects, museum collections, and other personal property that the Secretary determines is no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage and accept the transfer of personal property for the purposes of this Act from any other Federal agency. Notwithstanding any other provision of law, the head of any other Federal agency may transfer personal property directly to the administrative jurisdiction of the Secretary of the Interior for the purposes of this Act.

"(2) Convey museum objects, museum collections, and other personal property that the Secretary determines is no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Sell by negotiated sale or to the highest bidder those museum objects, museum collections, and other personal property that the Secretary determines—

"(A) are no longer needed for museum purposes or no longer have scientific value; and

"(B) cannot reasonably be disposed of by exchange, loan, gift, or transfer under paragraph (c) or (e) of the first section of this Act and paragraphs (1) and (2) of this Act, subject to such terms and conditions as the Secretary deems necessary to protect the public interest.

"The proceeds of any sale under this subsection shall, notwithstanding any other provision of law, be retained by the Secretary and used solely to defray the costs of administration, acquisition, maintenance, repair, and related expenses with respect to museum objects, museum collections, and other personal property under the jurisdiction of the Secretary of the Interior and used for purposes of the National Park System.

"(4) Destroy or cause to be destroyed museum objects, museum collections, and other personal property that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum property is treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

SEC. 302. APPLICATION AND DEFINITIONS.

The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by section 301 of this Act, is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects, museum collections, and other personal property that was under the administrative jurisdiction of the Secretary for purposes of the National Park System before the date of enactment of this section as well as those properties that may be acquired on or after such date.

"(b) DEFINITIONS.—For the purposes of this Act, the terms 'museum object, museum property and other personal property' mean objects that are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.

"(c) PRIORITY OF ACT.—To the extent that the management of museum objects, museum property and other personal property differs from management of personal property as described in the Federal Property and Administrative Services Act of 1949, as amended, the provisions of this Act shall control and the Secretary is authorized to promulgate regulations to govern the acquisition, management, and disposition of such museum property.".

TITLE IV—MINOR BOUNDARY ADJUSTMENTS

SEC. 401. SHENANDOAH NATIONAL PARK LAND TRANSFER.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may transfer certain land located in the Shenandoah National Park and described in subsection (c) to the Secretary of the Treasury for use by the Secretary of the Treasury as a United States Customs Service Canine Enforcement Training Center and for other uses deemed appropriate by the Secretary of the Treasury.

(b) CONDITIONS OF TRANSFER.—

(1) PROTECTION OF THE PARK.—An agreement to transfer land pursuant to subsection (a) shall include such provisions for the protection of Shenandoah National Park as the Secretary of the Interior considers necessary.

(2) CONSIDERATION.—A transfer pursuant to subsection (a) may be made without consideration or reimbursement.

(3) REVERSION.—If the land referred to in subsection (a) becomes surplus to the needs of the Secretary of the Treasury at any time, title to the land shall revert to the Department of the Interior. The Secretary of the Treasury shall be responsible for certifying that the property is not contaminated with hazardous substances before reversion is completed.

(c) DESCRIPTION OF THE LAND.—The land referred to in subsection (a) is a plot of fenced land equalling 9.888 acres containing buildings, structures, fixtures, equipment, and other improvements affixed to or resting upon the land, and has the following legal description:

Beginning at (1) a monument in the line of the land of Lawson just West of Road No. 604; thence with the land of Lawson and then with a new division line through the land of Shenandoah National Park N 59 degrees 45 minutes 38 seconds W 506.05 feet to (2) a Concrete Monument set, said point being N 59 degrees 45 minutes 38 seconds W 9.25 feet from a monument a corner to the land of Lawson; thence with another new division line through the land of Shenandoah National Park N 31 degrees 31 minutes 00 seconds E 1206.07 feet to (3) a Concrete Monument set in the line of the land of the United States Government; hence with the land of the United States Government for the following two courses: S 07 degrees 49 minutes 31 seconds E 203.98 feet to (4); thence S 09 degrees 10 minutes 06 seconds E 27.79 feet to (5) a corner between the land of the United States Government and the land of United States Customs Service Director Dog Training Center; thence with 282.896 Acre Tract of United States Customs Service Detector Dog Training Center for the following six courses:

S 10 degrees 38 minutes 32 seconds E 152.47 feet to (6); thence

S 00 degrees 48 minutes 32 seconds W 127.52 feet to (7); thence

S 08 degrees 25 minutes 46 seconds W 422.15 feet to (8); thence

S 14 degrees 37 minutes 16 seconds W 106.47 feet to (9); thence

S 27 degrees 13 minutes 28 seconds W 158.11 feet to (10); thence

S 38 degrees 17 minutes 36 seconds W 146.44 feet to the point of beginning,

containing 9.888 acres more or less.

SEC. 402. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in Section 28 to the park and to exclude the 5.51 acres in Section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Act.

SEC. 403. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on a map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore," numbered 625–80, 043A and dated July 1992.

SEC. 404. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 405. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION; ACQUISITION.—Federal lands, waters, and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands, waters, and interests therein added to the national monument by this section shall be administered by the Sec-

retary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands, waters, and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 406. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 407. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322-80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands, and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SEC. 408. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001-B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION BY DONATION.—(1) Within the lands described in section 408(a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 409. HARPERS FERRY NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The first section of the Act entitled "An Act to provide for the establishment of the Harpers Ferry National Monument", approved June 30, 1944 (16 U.S.C. 450bb), is amended by inserting at the end thereof the following: "The Secretary is authorized to acquire by donation only the lands and interests in lands generally depicted on the map entitled 'Harpers Ferry Addition', numbered 385/80,066, and dated September 1992, which lands or interests therein shall, when acquired, become a part of the park, subject to the laws and regulations applicable thereto, and the boundaries of the park shall be revised to include such lands and interests.".

TITLE V—MISCELLANEOUS SPECIFIC PARK AMENDMENTS

SEC. 501. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK, HI.—Section 505(f)(7) of the National Parks and Recreation Act of 1978 (16 U.S.C. 396d(f)(7)), is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK, NY.—Section 1601(h)(5) of the Act of December 28, 1980 (16 U.S.C. 410ll(h)(5)), is amended by striking "ten years" and inserting in lieu thereof "twenty-five years".

SEC. 502. FORT PULASKI NATIONAL MONUMENT, GA.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking out ": Provided, That" and all that follows and inserting in lieu thereof a period.

SEC. 503. TIMUCUAN ECOLOGICAL AND HISTORIC PRESERVE.

Section 201 of the Act of February 16, 1988, entitled "An Act authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and for other purposes" (Public Law 100-249; 16 U.S.C. 698n) is amended by repealing subsection (d).

TITLE VI—GENERAL AUTHORIZATIONS AND REPEALERS

SEC. 601. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 602. HISTORIC PRESERVATION FUNDS GRANTS.

Section 301(2) of the National Historic Preservation Act, as amended (16 U.S.C. 470w), is amended by inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau," after "Northern Mariana Islands,".

SEC. 603. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j-2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 604. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Act shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Act, or section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft and helicopters, or contract for such use, in furtherance of the management of the National Park System, and the provisions of section 47(a) of title 18, United States Code, shall not be applicable to such use.".

SEC. 605. AUTHORIZATION OF STUDIES.

(a) SAN ANTONIO HISTORIC PARK DISTRICT.—

(1) AUTHORIZATION.—The Secretary of the Interior shall conduct a study of the area described in paragraph 4 to determine its significance in illustrating and commemorating the role of pre-Colombian Indians, Franciscan Missionaries, post-mission Mexican ranchos, and pioneers of the western expansion in the development of the State of California. As part of the study, the Secretary shall provide recommendations on the suitability and feasibility of establishing the area as a unit of the National Park System.

(2) CONTENTS OF STUDY.—The study of the Secretary shall contain, but not be limited to, findings with respect to—

(A) measures for preserving and interpreting historic resources associated with the Mission San Antonio de Padua, including its architectural and cultural resources;

(B) measures for preserving and interpreting historic and prehistoric archeological features of the area;

(C) opportunities within the area to memorialize and interpret four stages of California history, including pre-Colombian Indians, Franciscan Spanish Missionaries, post-mission Mexican ranchos, and pioneers of the western expansion; and

(D) natural and recreational values of the area.

(3) CONSULTATION.—In preparing the study under this subsection, the Secretary shall consult with the Friends of Historic San Antonio Mission, San Antonio Valley Historical Association, other interested historical organizations, the Department of the Army and appropriate local, State, and Federal agencies.

(4) AREA STUDIED.—The area studied pursuant to paragraph (1) shall include the Mission San Antonio de Padua in California and its surrounding historic and prehistoric archeological sites.

(5) CONGRESSIONAL REVIEW.—The Secretary shall transmit the study to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within one year after the date on which funds are appropriated for the study.

(6) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(b) THEME STUDY ON THE HISTORY OF WATER CONSERVATION AND WATERSHED MANAGEMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall prepare and transmit to the Congress a National Historic Landmark Theme Study on the History of Water Conservation and Watershed Management (hereafter in this subsection referred to as the "theme study"). The theme study shall be prepared in consultation with the appropriate Federal agencies, State and local governments, as well as land, water and agricultural groups.

(2) PURPOSE.—The purpose of the theme study shall be to identify the key sites and structures that illustrate the development and management of water resources critical to the westward expansion of the Nation. This includes the sociocultural evolution of a working river from aboriginal tribes, through early exploration, nineteenth century settlement, development of a water dependent agricultural economy and an ongoing transition to present day urban development.

(3) HISTORIC LANDMARKS.—In the theme study, the Secretary shall identify, evaluate, and nominate as national historic landmarks those unique and significant contributions to our national heritage of cultural and historical lands, waterways, structures and landscapes.

(4) NEW PARK UNITS.—On the basis of the theme study, the Secretary shall—

(A) identify possible new park units appropriate to the theme of the history of water development; and

(B) analyze the feasibility and suitability of their including these sites in the National Park System.

This analysis shall include a detailed study of the Cache la Poudre River Basin.

(5) COMPLETION.—The theme study shall be completed not later than 2 years after the date funds are made available for such study.

(6) COOPERATIVE AGREEMENT.—

(A) The Secretary may enter into a cooperative agreement with one or more scholarly and public historic organizations to—

(i) prepare the theme study; and

(ii) ensure that the theme study is prepared in accordance with generally accepted standards.

(B) The scholarly and public historic organizations shall—

(i) be knowledgeable of the history of water development in the West; and

(ii) ensure that the theme study meets scholarly standards.

TITLE VII—INCREASES FOR LAND ACQUISITION FOR CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

SEC. 701. ACQUISITION CEILING INCREASES.

The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Act is amended as follows:

CHANNEL ISLANDS NATIONAL PARK, CALIFORNIA.—Section 208 of the Act of March 15, 1980 (16 U.S.C. 410ff-7), is amended by striking out "$30,100,000" and inserting in lieu thereof "$46,000,000".

SEC. 702. VOLUNTEERS IN THE PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,750,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this measure.

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

There was no objection.

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

Mr. Speaker, S. 2563, as amended, provides for the rehabilitation of historic structures within the Sandy Hook unit of Gateway National Recreation Area in the State of New Jersey and makes several minor boundary adjustments and other miscellaneous changes in programs and authorities related to the National Park Service.

The Fort Hancock district of the Sandy Hook unit of the Gateway National Recreation Area in New Jersey contains over 200 historic buildings constructed by the U.S. Army in the 1890's for coastal defense purposes. For the past decade, the Monmouth County Vocational School District has used four of these otherwise unoccupied buildings to house the district's Marine Academy of Science and Technology, a 4-year program for students in grades 9–12.

S. 2563 authorizes the Secretary of the Interior to continue this arrangement with the Monmouth County Vocational School District. Design of new facilities, landscape improvements, and rehabilitation of existing structures by the district are subject to the approval of the National Park Service. The Secretary may accept funds for rehabilitating other properties within the park for park uses displaced by the district and is authorized to collect reasonable fees for services provided to the district.

Allowing the school district to rehabilitate and use otherwise vacant buildings in this park benefits both the school and the National Park Service. This is the type of partnership we should be supporting. The bill is supported by the administration, and I urge my colleagues' support.

S. 2563 also was amended by the Committee on Interior and Insular Affairs, includes several minor boundary adjustments and other miscellaneous changes in law relating to the National Park Service. These provisions are taken from the bill H.R. 5949, a bipartisan housekeeping bill introduced by myself and the ranking member of the Subcommittee on National Parks and Public Lands, Mr. LAGOMARSINO.

S. 2563, as amended, incorporates a number of noncontroversial legislative changes sought by the National Park Service. These changes include nine minor boundary adjustments, authorization for cooperative park study units, authorization to dispose of unneeded museum properties, extension of two advisory committees, several general authorities including transportation of children to national park units and two studies.

The miscellaneous park amendments were added to the Senate-passed Sandy Hook legislation because there is very little time left in the session, and both measures are noncontroversial bills supported by the administration. I urge Members to adopt S. 2563 as amended.

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

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

Mr. Speaker, I rise in support of S. 2563 to permit the non-Federal use of certain unoccupied buildings within the Sandy Hook unit of Gateway National Recreation Area.

Mr. VENTO has adequately explained this measure, as well as the substantial amendment adopted by the subcommittee which provides for a variety of important and noncontroversial authorities to improve the operation and management of the Park System.

I am aware of no major objections to this measure, and I urge its adoption.

Mr. Speaker, I also would like to thank again the chairman for his help with the Cache la Poudre River basin designation study so that we can move ahead and do the necessary studies to satisfy the concerns of the National Park Service.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I rise in strong support of S. 2563. This legislation includes the provisions of a bill I authored, H.R. 5611, to require the National Park Service to study the California Mission San Antonio de Padua in my congressional district for possible designation as a national historic park. I would like to express my sincere appreciation to Chairman MILLER and Chairman VENTO for their inclusion of H.R. 5611 in this bill and to Mr. LAGOMARSINO for your inclusion of my legislation to require a Park alternative study for the California Mission San Antonio de Padua in H.R. 5949. The mission is currently being studied by the National Park Service for a possible historic landmark designation. Early findings strongly indicate that a historic landmark designation is warranted and it is important that the Park study be commenced as soon as possible so it may build upon the findings of the landmark study in an expeditious manner. As such, I am particularly pleased that your committee is taking such expeditious action on this legislation.

Mission San Antonio, founded in 1771, is well recognized as a historic site of national significance. The mission is an important component of the Juan Bautista de Anza National Historic Trail and is on the National Historic Register of Historic Places. Yet the mission is only one part of the area's historic appeal. The surrounding area is also unique in that it has significant artifacts from all stages of California's development dating back from the settlements of the pre-Colombian Indians, to the Spanish missionaries, and the pioneers of the Western expansion. Few areas in our Nation can boast such historical value and offer such an opportunity for historical research.

Mission San Antonio is also an unique site in that it remains in its original isolated state. Because the mission is situated within the boundaries of the Fort Hunter-Liggett Military Reservation, there has been no commercial or residential development of the area surrounding the mission.

For all these reasons, Mission San Antonio offers unparalleled opportunities for historical interpretation and research in a realistic setting and appears to be well suited for a national historic park designation. Sadly, our Nation has failed to give adequate recognition to the rich history of our Western States. Only four of the Nation's 31 national historic parks are in the Western States. Mission San Antonio would be an ideal area in which to commemorate and celebrate the history of our Nation's largest State.

The legislation directs the National Park Service to study the San Antonio Mission and surrounding historical areas to determine the suitability and feasibility of designating the area as a national historic park. As the mission is within the boundaries of the Fort Hunter-Liggett Reservation, the legislation directs the Park Service to conduct the study in consultation with the Department of the Army to

ensure that a park designation can work in tandem with the mission of the reservation.

As noted earlier, the Park Service, in conjunction with the Friends of Historic San Antonio Mission, is conducting a historic landmark study of the mission for designation as a national historic landmark. The landmark study is expected to be completed early this fall and early findings of the study strongly indicate that the mission warrants a historic landmark designation.

I would also point out that there is a great deal of support within the local community, and throughout the State of California, for the designation of a national historic park at the San Antonio Mission. The Friends of Historic San Antonio Mission have worked very hard to protect the mission and its surrounding historical sites and have made a very convincing case for designating this area as a national historic park.

There are not many places like San Antonio Mission left in our country. It is rare that we find a centuries old operating mission preserved in its original isolated state. Congress should take advantage of this opportunity by acting to commemorate this time period of our history and protect this area through a national historical park designation.

In closing, Mr. Chairman, the enactment of H.R. 5611 this year would be a great achievement for all of those working in California to preserve the mission's heritage. I appreciate your support for this initiative and look forward to working with you to ensuring the adoption of this legislation by the Congress.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2563, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area and to make minor boundary adjustments and other miscellaneous amendments to authorities and programs of the National Park Service.".

A motion to reconsider was laid on the table.

MAKING TECHNICAL CORRECTIONS IN CERTAIN PUBLIC LAWS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6046) to make technical corrections in certain public laws, as amended.

The Clerk read as follows:

H.R. 6046

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

SECTION 1. MISCELLANEOUS TECHNICAL AMENDMENTS

(a) MINNESOTA PUBLIC LANDS IMPROVEMENT ACT.—Section 205(d)(1) of the Minnesota Public Lands Improvement Act of 1990 (Public Law 101-442) is amended by inserting the words "and to other tracts of public lands in Minnesota whose sale is requested by persons or entities asserting claims thereto" after the words "subsection 204(b) of this Act".

(b) CLARKS FORKS WILD AND SCENIC RIVER.—Section 1301 of Public Law 101-628 is amended by striking "This Act may be cited" and by inserting in lieu thereof "This title may be cited".

(c) FLPMA.—The first sentence of section 302(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(c)) is amended by striking "implmentation plan" and by inserting in lieu thereof "implementation plan".

(d) FORMER RAILROAD LANDS.—The Act of March 8, 1922 (42 Stat. 414, 43 U.S.C. 912) is amended by striking the words "whenever public lands" and by inserting in lieu thereof "except as otherwise provided by the National Trails System Act or other applicable law, whenever public lands".

(e) COPPER SPUR RANCH EXCHANGE.—(1) The title of the Act of May 27, 1992 (Public Law 102-293) is amended to read as follows: "To authorize the exchange of certain lands in South Dakota and Colorado, and for other purposes".

(2) Section 1(e) of the Act cited in paragraph (1) is amended by striking "The exchange of lands" and by inserting in lieu thereof "To the extent possible, the exchange of lands".

(f) UPPER MISSOURI WILD AND SCENIC RIVER.—The boundaries and classifications of the Upper Missouri Wild and Scenic River, as published in the Federal Register on January 22, 1980 (45 FR 4474-4478) are hereby approved as though submitted to the Congress prior to October 12, 1977. The effective date of such boundaries and classifications is April 21, 1980.

(g) NUMBERING OF WILD AND SCENIC RIVER SEGMENTS.—Section 3(a) of the Wild and Scenic Rivers Act is amended by numbering the unnumbered paragraphs following paragraph (108) as follows:

(1) The unnumbered paragraph added by Public Law 101-306, relating to the East Fork of the Jemez River in New Mexico is numbered as paragraph (109).

(2) The unnumbered paragraph added by Public Law 101-306 relating to the Pecos River in New Mexico is numbered as paragraph (110).

(3) The unnumbered paragraph added by Public Law 101-612, relating to the Smith River in California is numbered as paragraph (111).

(4) The unnumbered paragraph added by Public Law 101-612, relating to the Middle Fork of the Smith River in California is numbered as paragraph (112).

(5) The unnumbered paragraph added by Public Law 101-612, relating to the North Fork of the Smith River in California is numbered as paragraph (113).

(6) The unnumbered paragraph added by Public Law 101-612, relating to the Siskiyou Fork of the Smith River in California is numbered as paragraph (114).

(7) The unnumbered paragraph added by Public Law 101-612, relating to the South Fork of the Smith River in California is numbered as paragraph (115).

(8) The unnumbered paragraph added by Public Law 101-628, relating to the Clarks Fork in Wyoming is numbered as paragraph (116).

(9) The unnumbered paragraph added by Public Law 102-50, relating to the Niobrara River in Nebraska is numbered as paragraph (117).

(10) The unnumbered paragraph added by Public Law 102-50, relating to the Missouri River in Nebraska and South Dakota is numbered as paragraph (118).

(11) The unnumbered paragraph added by Public Law 102-249, relating to Bear Creek in Michigan is numbered as paragraph (119).

(12) The unnumbered paragraph added by Public Law 102-249, relating to the Black River in Michigan is numbered as paragraph (120).

(13) The unnumbered paragraph added by Public Law 102-249, relating to the Carp River in Michigan is numbered as paragraph (121).

(14) The unnumbered paragraph added by Public Law 102-249, relating to the Indian River in Michigan is numbered as paragraph (122).

(15) The unnumbered paragraph added by Public Law 102-249, relating to the Manistee River in Michigan is numbered as paragraph (123).

(16) The unnumbered paragraph added by Public Law 102-249, relating to the Ontonagon River in Michigan is numbered as paragraph (124).

(17) The unnumbered paragraph added by Public Law 102-249, relating to the Paint River in Michigan is numbered as paragraph (125).

(18) The unnumbered paragraph added by Public Law 102-249, relating to the Pine River in Michigan is numbered as paragraph (126).

(19) The unnumbered paragraph added by Public Law 102-249, relating to the Presque Isle River in Michigan is numbered as paragraph (127).

(20) The unnumbered paragraph added by Public Law 102-249, relating to the Sturgeon River in the Hiawatha National Forest in Michigan is numbered as paragraph (128).

(21) The unnumbered paragraph added by Public Law 102-249, relating to the Sturgeon River in the Ottawa National Forest in Michigan is numbered as paragraph (129).

(22) The unnumbered paragraph added by Public Law 102-249, relating to the East Branch of the Tahquamenon River in Michigan is numbered as paragraph (130).

(23) The unnumbered paragraph added by Public Law 102-249, relating to the Whitefish River in Michigan is numbered as paragraph (131).

(24) The unnumbered paragraph added by Public Law 102-249, relating to the Yellow Dog River in Michigan is numbered as paragraph (132).

(25) The unnumbered paragraph added by Public Law 102-271, relating to the Allegheny River in Pennsylvania is numbered as paragraph (133).

(26) The unnumbered paragraph added by Public Law 102-275, relating to the Big Piney Creek, Arkansas, is numbered as paragraph (134).

(27) The unnumbered paragraph added by Public Law 102-275, relating to the Buffalo River, Arkansas, is numbered as paragraph (135).

(28) The unnumbered paragraph added by Public Law 102-275, relating to the Cossatot River, Arkansas, is numbered as paragraph (136).

(29) The unnumbered paragraph added by Public Law 102-275, relating to Hurricane Creek, Arkansas, is numbered as paragraph (137).

(30) The unnumbered paragraph added by Public Law 102-275, relating to Little Mis-

souri River, Arkansas, is numbered as paragraph (138).

(31) The unnumbered paragraph added by Public Law 102-275, relating to the Mulberry River, Arkansas, is numbered as paragraph (139).

(32) The unnumbered paragraph added by Public Law 102-275, relating to the North Sylamore Creek, Arkansas, is numbered as paragraph (140).

(33) The unnumbered paragraph added by Public Law 102-275, relating to Richland Creek, Arkansas, is numbered as paragraph (141).

(34) The unnumbered paragraph added by Public Law 102-301, relating to Sespe Creek, California, is numbered as paragraph (142).

(35) The unnumbered paragraph added by Public Law 102-301, relating to Sisquoc River, California, is numbered as paragraph (143).

(36) The unnumbered paragraph added by Public Law 102-301, relating to Big Sur River, California, is numbered as paragraph (144).

(h) NUMBERING OF WILD AND SCENIC RIVER STUDY SEGMENTS.—Section 5(a) of the Wild and Scenic Rivers Act is amended by renumbering paragraph (106), relating to the St. Mary's River in Florida and Georgia as paragraph (108), and by numbering the paragraphs following such paragraph (108) as follows:

(1) The unnumbered paragraph added by Public Law 101-538, relating to the Mills River in North Carolina is numbered as paragraph (109).

(2) The unnumbered paragraph added by Public Law 101-628, relating to the Sudbury, Assabet, and Concord Rivers in Massachusetts is numbered as paragraph (110).

(3) The unnumbered paragraph added by Public Law 102-50, relating to the Niobrara, Nebraska is numbered as paragraph (111).

(4) The unnumbered paragraph added by Public Law 102-214, relating to the Lamprey River in New Hampshire is numbered as paragraph (112).

(5) Paragraph (112) added by Public Law 102-215, relating to White Clay Creek in Delaware and Pennsylvania is numbered as paragraph (113).

(6) The unnumbered paragraph added by Public Law 102-249, relating to the Brule River in Michigan and Wisconsin is numbered as paragraph (114).

(7) The unnumbered paragraph added by Public Law 102-249, relating to the Carp River in Michigan is numbered as paragraph (115).

(8) The unnumbered paragraph added by Public Law 102-249, relating to the Little Manistee River in Michigan is numbered as paragraph (116).

(9) The unnumbered paragraph added by Public Law 102-249, relating to the White River in Michigan is numbered as paragraph (117).

(10) The unnumbered paragraph added by Public Law 102-249, relating to the Ontonagon River in Michigan is numbered as paragraph (118).

(11) The unnumbered paragraph added by Public Law 102-249, relating to the Paint River in Michigan is numbered as paragraph (119).

(12) The unnumbered paragraph added by Public Law 102-249, relating to the Presque Isle River in Michigan is numbered as paragraph (120).

(13) The unnumbered paragraph added by Public Law 102-249, relating to the Sturgeon River in the Ottawa National Forest in Michigan is numbered as paragraph (121).

(14) The unnumbered paragraph added by Public Law 102-249, relating to the Sturgeon River in the Hiawatha National Forest in Michigan is numbered as paragraph (122).

(15) The unnumbered paragraph added by Public Law 102-249, relating to the East Branch of the Tahquamenon River in Michigan is numbered as paragraph (123).

(16) The unnumbered paragraph added by Public Law 102-249, relating to the Whitefish River in Michigan is numbered as paragraph (124).

(17) The unnumbered paragraph added by Public Law 102-271, relating to the Clarion River in Pennsylvania is numbered as paragraph (125).

(18) The unnumbered paragraph added by Public Law 102-271, relating to the Mill Creek in Pennsylvania is numbered as paragraph (126).

(19) The unnumbered paragraph added by Public Law 102-301, relating to Piru Creek, California, is numbered as paragraph (127).

(20) The unnumbered paragraph added by Public Law 102-301, relating to the Little Sur River, California, is numbered as paragraph (128).

(21) The unnumbered paragraph added by Public Law 102-301, relating to Matilija Creek, California, is numbered as paragraph (129).

(22) The unnumbered paragraph added by Public Law 102-301, relating to Lopez Creek, California, is numbered as paragraph (130).

(23) The unnumbered paragraph added by Public Law 102-301, relating to Sespe Creek, California, is numbered as paragraph (131).

(i) ARKANSAS RIVERS.—Subparagraph (C) of paragraph (136) of section 3(a) of the Wild and Scenic Rivers Act, as added by Public Law 102-275, relating to the Cossatot River, Arkansas, is amended by adding at the end thereof the following new sentence: "For purposes of administration of such segment, any reference in this Act to 'the Secretary' or 'the appropriate Secretary' shall be deemed to be a reference to the Secretary of the Army."

(j) ADDITIONAL TECHNICAL AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT.—The Wild and Scenic Rivers Act is amended as follows:

(1) Subparagraph (B) of paragraph (85) of section 3(a), relating to the Metolius River in Oregon, is amended by inserting "to be administered" before "by the Secretary of Agriculture".

(2) Subparagraph (K) of paragraph (112) of section 3(a), relating to the West Fork Patrick Creek, is amended by inserting "USGS" after "1951".

(3) Paragraph (115) of section 3(a), relating to a segment of the South Fork of the Smith River in California is amended by inserting "the" after "on" in subparagraph (A) and by striking "depicted in" in subparagraph (R) and inserting "depicted on".

(4) The first sentence of section 3(b) is amended by striking "if provided" and inserting "is provided".

(5) The last sentence of section 5(b)(1) is amended by striking "river" and inserting "rivers".

(6) section 5(b)(6) is amended by striking "1204" and inserting "1203".

(3) Section 5(b)(8) as added by section 1(b) of Public Law 101-364, relating to the St. Marys River in Florida and Georgia, is redesignated as paragraph (10) and amended by striking "(106)" and inserting "(108)".

(k) CIVIL WAR SITES ADVISORY COMMISSION.—Section 1205(a)(1) of Public Law 101-628 is amended by striking out "Twice" and inserting "Three".

(l) NATIONAL PARK SYSTEM REPORT.—Public Law 101-628 is amended as follows:

(1) In section 1213 strike out "SEC. 1213" and insert:

"SEC. 1213. NATIONAL PARK SYSTEM REPORT.".

(2) In section 1213 insert "(a) IN GENERAL.—" before the first sentence.

(3) Redesignate section 1214 as subsection (b) of section 1213 and insert before the first sentence thereof "(b) HEARINGS AND PUBLIC COMMENT.—".

(4) Redesignate section 1215 as subsection (c) of section 1213, insert before the first sentence thereof "(c) CONTENTS OF REPORT.—", and redesignate subsections (a), (b) and (c) thereof as paragraph (1), (2), and (3) thereof, respectively.

(5) Redesignate section 1216 as section 1214 by striking out "SEC. 1216." and inserting:

"SEC. 1214. NATIONAL PARK SYSTEM BOUNDARY STUDY.".

(6) In section 1214 as redesignated by paragraph (5) of this subsection insert "(a) CRITERIA.—" before the first sentence and redesignate subsections (a), (b) and (c) thereof as paragraphs (1), (2), and (3) thereof respectively.

(7) Redesignate section 1217 as subsection (b) of section 1214, insert "(b) PROPOSALS.—" before the first sentence thereof, and redesignate subsections (a), (b) and (c) thereof as paragraphs (1), (2), and (3) thereof respectively.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6046.

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

There was no objection.

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

Mr. Speaker, this bill, H.R. 6046, is a bill that makes technical corrections and conforming changes to certain public laws under the jurisdiction of the Committee on Interior and Insular Affairs. These are obviously purely housekeeping matters and include provisions involving numbering of river segments designated under the Wild and Scenic Rivers Act, and others involving correcting public law titles or the numbering of sections or paragraphs or various statutes.

The legislation is completely noncontroversial, and I would, of course, recommend its passage by the House so that these technical corrections of the various laws can be made.

Mr. Speaker, I might add that because the subcommittee and the work we do involves a significant amount of authorization and writing of legislation each term involving anywhere from 70 to 100 laws that might be written into law, if does necessitate dealing with the technical problems that do arise. I think we have very few consid-

ering the magnitude of the legislation, and some are unavoidable because of the numbering and the sequence into the Wild and Scenic Rivers Act, which make up the primary changes in this technical law, and they are unavoidable, based on the method that is utilized in terms of each enactment of those laws and the placing of them into the Federal Code.

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

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

Mr. Speaker, I rise in support of this measure.

As the gentleman from Minnesota has explained, this measure simply makes a number of technical or noncontroversial amendments to existing statutes, such as renumbering of wild and scenic river segments within the Wild and Scenic River Act.

I am aware of no problems with this measure and urge its passage.

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

Mr. VENTO. Mr. Speaker, in this technical corrections bill I would like to recognize the work of Pope Barrow, the senior legislative counsel in the Office of Legislative Counsel that has done extensive work on this, and on many other measures, but I thank especially noteworthy is his work in this particular instance on this technical bill, as well as some of his substantive work.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 6046, as amended.

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

The motion to reconsider was laid on the table.

□ 1910

REDUCING RESTRICTIONS ON LANDS CONVEYED TO CITY OF KAYSVILLE, UT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1183) to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, UT, and for other purposes, as amended.

The Clerk read as follows:

S. 1183

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

TITLE I—UTAH LANDS

SEC. 101. AMENDMENT.

Section 2 of the Act of June 8, 1926 (ch. 498; 44 Stat. 708), is amended by striking "States." at the end of the first sentence and inserting in lieu thereof the following: "States, except that these restrictions on conveyances and uses shall not apply to those lands upon which communications facilities were located as of November 1, 1991, or prevent reasonable ingress and egress for the repair, maintenance, or improvement of such facilities, nor shall these restrictions on conveyances and uses prohibit the use of the lands described in the first section of this Act for recreational purposes so long as such recreational use is consistent both with the protection of the watershed and water supply system of the city and with the management objectives for adjacent National Forest System lands. Any improvements of the lands described in the first section of this Act for recreational purposes shall be undertaken only in consultation with and the approval of the Secretary of Agriculture.".

SEC. 102. BEAR RIVER EXCHANGE.

(a) IN GENERAL.—If, within 5 years after the date of enactment of this Act, the State of Utah transfers to the Secretary of the Interior all right, title, and interest of the State of Utah in and to the State lands in exchange for Federal lands, the Secretary of the Interior, within 18 months after such transfer, shall transfer to the State of Utah all right, title, and interest in and to so much of the Federal lands as the Secretary determines to be equal in fair market value to the State lands.

(b) STATE LANDS.—As used in this section, the term "State lands" means approximately 700.70 acres of land located in the State of Utah, as generally depicted as State lands on the map entitled "Bear River Migratory Bird Refuge", map numbered 1, and more particularly described as: The South half of the Northwest Quarter and Lots 5, 6, 7, and 8, all in Section 4, and also, Lots 7 and 8, Section 5, township 8 North, Range 2 West, Salt Lake Base and Meridian.

All property below the surveyed meander line and North of the Bear River Bird Refuge North Boundary in Sections 4 and 9 and in the East one-half of Sections 5 and 8, Township 8 North, Range 2 West, Salt Lake Base and Meridian.

(c) FEDERAL LANDS.—As used in this section, the term "Federal lands" means approximately 1,365.14 acres of land located in the State of Utah, as generally depicted as Federal lands on the map entitled "Fingerpoint ", map numbered 2, and the map entitled "Rozel Point", map numbered 3, and more particularly described as:

Township 7 North, Range 10 West, Salt Lake Base & Meridian
Section 5: Lots 1–6, W½SW¼
Section 6: Lots 1–7, W½SE¼
Section 7: Lots 1–6
Section 8: Lots 1–4, W½
Section 17: Lots 1–5
Section 18: Lots 1–3
Township 8 North, Range 7 West, Salt Lake Base & Meridian
Section 8: Lots 1–12, E½NE¼

(d) ADMINISTRATION.—The lands transferred to the United States under this section shall be added to and administered as part of the Bear River Migratory Bird Refuge.

TITLE II—COLORADO MILITARY LANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "Fort Carson-Pinon Canyon Military Lands Withdrawal Act".

SEC. 202. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 3,133.02 acres of public land and 11,415.16 acres of federally-owned minerals in El Paso, Pueblo and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated February 1992, and filed in accordance with section 204.

SEC. 203. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 2,517.12 acres of public lands and 130,139 acres of federally-owned minerals in Las Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon site", dated February 1992, and filed in accordance with section 204.

SEC. 204. MAPS AND LEGAL DESCRIPTIONS.

(a) PREPARATION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and a legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) LEGAL EFFECT.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) LOCATION OF COPIES.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 205. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT GUIDELINES.—(1) Except as provided in section 206, during the period of withdrawal, the Secretary of the Army shall manage for military purposes the lands covered by this title and may authorize use of the lands by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads and trails on the lands withdrawn by this title commonly in public use, the Secretary of the

Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this section shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—The Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 202 and 203 for the period of withdrawal. The plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands;

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining or mineral and geothermal leasing, including mineral materials disposal; and

(4) be developed not later than 5 years after the date of enactment of this Act.

(c) LISTING OF LANDS SUITABLE FOR MINING.—On completion of the management plan prepared pursuant to subsection (b), the Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined under such subsection to be suitable for opening to mining, and mineral and geothermal leasing, including mineral materials disposal, and specifying the opening date.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 208.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(e) REEXAMINATION OF LANDS FOR SUITABILITY FOR MINING.—At least every five years after the initial identification of lands suitable for opening to mining required by subsection (b)(3), the Secretary of the Army and the Secretary of the Interior shall determine those withdrawn lands, if any, which the Secretaries consider suitable for opening to mining, mineral and geothermal leasing, or mineral material disposal, and those acquired lands, if any, which the Secretaries consider suitable for opening to mineral and geothermal leasing or mineral material disposal. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suitable for opening and specifying the opening date.

(f) USE OF CERTAIN RESOURCES.—The Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources when the use of such resources is required for construction needs of the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 206. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

(a) AUTHORITY OF SECRETARY OF THE INTERIOR.—Notwithstanding any other provision of law, and except as provided in section 205 of this title, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources contained within the boundaries of the Fort Carson Reservation and Pinon Canyon Maneuver Site.

(b) EFFECT OF IDENTIFICATION OF LANDS AS SUITABLE FOR MINING.—On the day specified by the Secretary of the Interior in the notice published in the Federal Register pursuant to subsections (c) and (e) of section 205, the land identified as suitable for opening to the operation of the mining, mineral, and geothermal leasing and the mineral material disposal laws shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary of the Interior or the Congress.

(c) EXCEPTION FROM CERTAIN LAWS.—No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (30 U.S.C. 611; 69 Stat. 368), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), on lands described in sections 202 and 203.

(d) REGULATIONS.—On lands identified for opening to mining, mineral, and geothermal leasing or mineral material disposal by section 205(b)(3), or by subsequent amendments to the management plan described in section 205, all minerals contained in those lands shall be subject to mining, mineral, and geothermal leasing or mineral material disposal under such rules and regulations as the Secretary of the Interior may promulgate pursuant to the terms and conditions of section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466).

(e) CLOSURE OF LANDS UNDER CERTAIN CIRCUMSTANCES.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the Army, shall close any lands that have been opened to mining, mineral, and geothermal leasing or mineral material disposal pursuant to this section.

(f) MINING CLAIMS.—(1) Except as otherwise provided in this title, mining claims located pursuant to this title shall be subject to the provisions of the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.). In the event of a conflict between that law and this title, this title shall prevail.

(2) All mining claims located under the terms of this title shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) PATENTS FOR LOCATABLE MINERALS.—(1) Patents issued pursuant to this title for locatable minerals shall convey title to the locatable minerals only, and shall be issued together with an appropriate authorization for use of so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), are referred to as "locatable minerals".

SEC. 207. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 208. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) TERMINATION DATE.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this Act.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this title, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing and thereafter may take necessary steps, in accordance with applicable law, to prevent uses inconsistent with such extension for a period not in excess of 2 years after the termination of the withdrawal and reservation made by this title.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this title, or if, during the period of withdrawal, the Secretary of the Army decides to relinquish any or all of the lands withdrawn and reserved under this title, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under para-

graph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by this title, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this title at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this title as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 209. DELEGATION.

The functions of the Secretary of the Army under this title may be delegated. The functions of the Secretary of the Interior under this title may be delegated, except that the order referred to in section 208(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 210. HOLD HARMLESS.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral, or geothermal leasing activity conducted on lands comprising the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 211. AMENDMENT TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606, 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) The Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE III—TARGHEE AND KANIKSU NATIONAL FORESTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Targhee and Kaniksu Land Exchange Act of 1992".

SEC. 302. TARGHEE NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of the Targhee National Forest are adjusted as generally depicted on the map entitled "Targhee National Forest Proposed Boundary Changes" and dated March 1, 1991.

(b) MAP AND LEGAL DESCRIPTION.—

(1) PUBLIC ACCESS.—The map described in subsection (a) and a legal description of the lands depicted on the map shall be on file and available for public inspection in the Regional Office of the Intermountain Region of the Forest Service.

(2) TECHNICAL CORRECTIONS.—The map and legal description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture (referred to in this title as the "Secretary") may correct clerical and typographical errors.

(c) RULE OF CONSTRUCTION.—For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9), the boundaries of the Targhee National Forest, as adjusted by this Act, shall be considered to be the boundaries of the Forest as of January 1, 1965.

SEC. 303. CLARK FORK LAND EXCHANGE.

(a) FINDINGS.—Congress finds that, over the past 10 years—

(1) the University of Idaho has utilized the Clark Fork Ranger Station within the Kaniksu National Forest as the Clark Fork Field Campus, under a Granger-Thye permit; and

(2) the University of Idaho has made substantial improvements in order to maintain and utilize the buildings as a campus facility.

(b) LAND EXCHANGE.—

(1) CONVEYANCE BY THE SECRETARY.—

(A) IN GENERAL.—In exchange for the conveyance described in paragraph (2) and subject to easements that are considered necessary by the Secretary for public and administrative access and to valid existing rights, the Secretary shall convey to the Regents of the University of Idaho all right, title, and interest of the United States to Parcel A.

(B) PARCEL A.—As used in this section, the term "Parcel A" means the approximately 35.27 acres comprising the Clark Fork Ranger Station within the Kaniksu National Forest, as depicted on the map entitled "Clark Fork Land Exchange—Parcel A" and dated July 1, 1991.

(2) CONVEYANCE BY THE REGENTS OF THE UNIVERSITY OF IDAHO.—

(A) IN GENERAL.—In exchange for the conveyance described in paragraph (1) and subject to valid existing rights of record acceptable to the Secretary, the Regents of the University of Idaho shall convey to the Secretary, by general warranty deed in accordance with Department of Justice title standards, all right, title, and interest to Parcel B.

(B) PARCEL B.—As used in this section, the term "Parcel B" means the approximately 40 acres depicted on the map entitled "Clark Fork Land Exchange—Parcel B" and dated July 1, 1991.

(3) MAPS AND LEGAL DESCRIPTIONS.—

(A) PUBLIC ACCESS.—The maps described in paragraphs (1)(B) and (2)(B) and the legal descriptions of the lands depicted on the maps shall be on file and available for public inspection in the Regional Office of the Northern Region of the Forest Service.

(B) TECHNICAL CORRECTIONS.—The maps and legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors.

(c) LAND VALUATION.—

(1) IN GENERAL.—Subject to paragraph (2), if the lands exchanged between the United States and the Regents of the University of Idaho, as authorized by subsection (b), are not of equal value, the values shall be equalized in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(2) EXCEPTION.—The value of the improvements made by the University of Idaho on Parcel A under the Granger-Thye permit shall be excluded from consideration in a valuation conducted pursuant to paragraph (1).

(d) NATIONAL FOREST BOUNDARY ADJUSTMENT.—

(1) IN GENERAL.—Upon acquisition of Parcel B by the United States, the boundaries of the Kaniksu National Forest shall be adjusted to include Parcel B.

(2) RULE OF CONSTRUCTION.—For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9), the boundaries of the Kaniksu National Forest, as adjusted by this title, shall be considered to be the boundaries of the Forest as of January 1, 1965.

TITLE IV—RIGHTS-OF-WAY

SEC. 401. SUNRISE MOUNTAIN UTILITY CORRIDOR.

(a) ESTABLISHMENT.—

(1) There is established a right-of-way corridor of approximately one mile in width within the lands known as Sunrise Mountain (Natural Area) Inventory Unit NV-050-0420 (referred to in this Act as the "corridor").

(2) The corridor shall be located and administered by the Secretary of the Interior (referred to in this Act as the "Secretary") pursuant to sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1763). Effective on the filing of the legal description of the corridor by the Secretary, lands so described shall not be subject to section 603 of such Act.

(3)(A) Subject to subparagraph (B), the exact location and width of the corridor shall be as established in the map and legal description filed by the Secretary pursuant to subsection (b).

(B) The center line of the corridor shall be approximately the center line of the Navajo-McCullough 500 kilovolt transmission line in the lands described in paragraph (1) as in existence on the date of enactment of this Act.

(b) MAP AND LEGAL DESCRIPTION.—

(1) As soon as practicable after the date of enactment of this Act, a map and legal description of the corridor shall be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(2) The map shall have the same force and effect as if included in this Act.

(3) Copies of the map shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management of the Department of the Interior, and in each appropriate office of the Bureau of Land Management in Nevada.

(c) RIGHTS-OF-WAY.—

(1) The Secretary may grant not more than six rights-of-way over, upon, under, or through the corridor for systems and facilities compatible with each other and consistent with title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) (including rights-of-way to be used or useful for the construction, operation, and maintenance of single- or double-circulated electric transmission lines), of which—

(A) one right-of-way shall be used for the Intermountain Power Project transmission line;

(B) one right-of-way shall be used for the Navajo-McCullough transmission line referred to in subsection (a)(3)(B); and

(C) the remaining four rights-of-way may be granted only for the construction, operation, and maintenance of open-access transmission lines.

(2) Each right-of-way within the corridor shall be located so that the right-of-way causes the least practicable visual and physical impact on the environment, the corridor, Rainbow Gardens, and Desert Wetlands Park, that is consistent with good engineering practices.

(d) CONSTRUCTION.—Nothing in this section shall be construed as authorizing the issuance of any rights-of-way for electrical transmission lines or other purposes that would be inconsistent with applicable zoning or other requirements of State or local governments.

SEC. 402. CLAIMED RIGHTS-OF-WAY.

The Federal Land Policy and Management Act of 1976 is hereby amended by adding at the end of title III the following new sections 319 and 320:

"SEC. 319. RECORDATION OF CLAIMED RIGHTS-OF-WAY.

"(a) FILING REQUIREMENTS.—(1) Any party claiming to be a holder of a right-of-way across public or other Federal lands for the construction of a highway pursuant to a grant made by Revised Statutes section 2477 (43 U.S.C. 932) that became operative before repeal of such section on October 21, 1976, shall, on or before January 1, 1994, file for record in the office or offices of the Bureau of Land Management responsible for management of public lands within the State or States wherein such claimed right-of-way is located either a notice of intent to hold and maintain the right-of-way or a notice of abandonment of such party's claim to be the holder of such right-of-way. A notice of intent to hold and maintain such a right-of-way shall be accompanied by information concerning the actual construction, maintenance, and public use on which such party bases its claim to have established such a right-of-way, and by such other information regarding the uses, location, and extent of such claimed right-of-way as the Secretary of the Interior may require. The Secretary may allow information already in the possession of the Bureau of Land Management to be included by reference to the documents in which such information is recorded.

"(2) A party filing a notice pursuant to paragraph (1) shall also simultaneously file a copy thereof in the appropriate office of any other agency responsible for management of any Federal lands traversed by the claimed right-of-way, and shall give public notice of the party's intention to hold and maintain or to abandon the claimed right-of-way by publication of information concerning such intention in one or more newspapers of general circulation in the areas where the affected lands are located.

"(b) EFFECT.—(1) The failure of any party subject to the requirements of subsection (a) to file the notices or to publish the information required to be filed and published by such subsection within the time specified by such subsection shall be conclusively deemed to constitute an abandonment and relinquishment of a right-of-way with respect to which such filing and publication is required by such subsection.

"(2) Recordation pursuant to this section shall not, of itself, render valid any claim which would not otherwise be valid under applicable law or provide a basis for changing the scope, alignment, or character or extent of use of any claimed right-of-way; and nothing in this section shall be construed as waiving, altering, or otherwise affecting any terms or conditions applicable to any right-of-way under this Act or any other applicable law.

"(c) INVESTIGATIONS.—(1) Upon receipt of a notice filed pursuant to subsection (a) that a party intends to hold and maintain a claimed right-of-way involving any lands specified in paragraph (2) of this subsection, the Secretary of the Interior, acting through an appropriate officer of the Bureau of Land Management or (if any portion of a claimed right-of-way covered by this subsection is located within a unit of the National Park System) of the National Park Service, shall conduct an investigation to determine the validity of each such claimed right-of-way. The Secretary shall provide an opportunity for the public to contest or request an investigation of the validity of any other claimed right-of-way.

"(2)(A) The Secretary shall investigate the validity of each claimed right-of-way any portion of which involves—

"(i) any lands within the National Park System, the National Wild and Scenic River System, or the National Wilderness Preservation System; or

"(ii) any lands being managed so as to preserve their suitability for designation as wilderness, pursuant to section 603 of this Act or any other provision of law or regulation; or

"(iii) any area of critical environmental concern; or

"(iv) any other lands whose use for highway purposes would be inconsistent with the land-use plans for those lands.

"(B) The Secretary shall also investigate any claimed right-of-way not involving lands specified in subparagraph (A) but with respect to which a challenge is filed that states grounds which, if proved or confirmed, would constitute reason to doubt the validity of such claimed right-or-way or any portion thereof.

"(3) If any portion of such claimed right-of-way is on Federal lands managed by an agency other than the Bureau of Land Management or the National Park Service, the investigating officer shall request the comments of such agency with respect to the validity of such right-of-way.

"(4) Appropriate notice to the public, including the owners of any non-Federal lands affected by the claimed right-of-way, shall be provided with respect to initiation of each investigation carried out pursuant to this paragraph, and the investigating officer shall provide an opportunity for the public to submit comments concerning the subject of the investigation.

"(5) If information or comments submitted to the investigating officer demonstrate that there is a dispute as to any relevant facts with respect to the validity of a right-of-way subject to an investigation under this paragraph, the parties to such dispute shall be afforded an adjudicatory hearing on the record with respect to such disputed issues of fact. Any such adjudicatory hearing shall be before a qualified administrative law judge whose findings shall govern disposition of such issues of fact in any determination concerning the validity of a claimed right-of-way, subject to administrative and judicial review under applicable provisions of law.

"(6) If after an investigation pursuant to this paragraph, the investigating officer finds either that a claimed right-of-way or portion thereof is valid or that there is reason to doubt the validity of such claimed right-of-way or portion thereof, notice of such finding and the reasons therefor shall be provided to the party claiming the right-of-way and to all other affected parties, including the public.

"(7) For purposes of this section, if any portion of a claimed right-of-way includes lands managed pursuant to section 603 of this Act, that fact shall constitute a reason to doubt the validity of such portion of such right-of-way.

"(d) APPEALS.—(1) Any claimed right-of-way or portion thereof with respect to which it is found, pursuant to subsection (c), that there is reason to doubt the validity, shall be deemed to be invalid unless, within 30 days after such finding the party claiming the right-of-way has filed with the Secretary of the Interior an appeal of such finding, and the Secretary thereafter determines the right-of-way to be valid. Any party other than the party claiming the right-of-way, may intervene in any appeal filed under this paragraph in support of the finding of invalidity by filing with the Secretary a notice of such intervention within the period allowed for filing of the appeal.

"(2) Any finding by the investigating officer with regard to the validity or invalidity of a claimed right-of-way or portion thereof valid shall become final unless within 30 days after such finding a notice of appeal of such finding is filed with the Secretary of the Interior.

"(3) Any decision by the Secretary with regard to an appeal under this subsection shall be made after the party claiming or contesting a right-of-way has been provided with the evidence upon which the investigating officer's finding regarding its validity or invalidity was based and has been given an opportunity to respond, including an adjudicatory hearing on the record with respect to any disputed issues of fact.

"(4)(A) Pending a final determination of validity with respect to a claimed right-of-way that is subject to an appeal under this subsection, the Federal land covered by such claimed right-of-way shall be managed in accordance with applicable law (including this Act) and management plans as if such right-of-way did not exist, except that such lands may continue to be used for lawful transportation, access, and related purposes of the same nature and to the same extent as was properly permitted by the Secretary on the date of enactment of this section. Any such continued uses shall be subject to appropriate regulations to protect the resources and values of the affected lands.

"(B) Upon a final determination of invalidity with respect to a claimed right-of-way subject to an appeal under paragraph (3), Federal lands covered by such claimed right-of-way shall be managed in accordance with applicable law and management plans.

"(C) A determination by an investigating officer as to the validity or invalidity of a claimed right-of-way may be appealed to the Secretary by any person, provided such appeal is made no later than 30 days after the determination of the investigating officer. Any person filing such an appeal shall be afforded an adjudicatory hearing on the record with regard to any disputed issue of fact. Any decision of the Secretary regarding such an appeal shall be subject to judicial review.

"(5) Any decision by the Secretary pursuant to this subsection shall be subject to judicial review under applicable provisions of law, but nothing in this subsection shall be construed as affording any right to seek or participate in any judicial proceeding by any party not otherwise entitled to seek or participate in such proceeding.

"(e) CHANGE IN USE.—Any change in the scope, alignment, or character of use of a valid right-of-way established pursuant to Revised Statutes section 2477 shall be subject to terms and conditions required by section 505 of this Act or other applicable law.

"(f) SAVINGS CLAUSE.—Nothing in this section shall be construed as increasing or diminishing the requirements of any applicable law with respect to establishment, construction, or maintenance of a highway for purposes of obtaining a valid right-of-way pursuant to Revised Statutes section 2477 prior to its repeal.

"SEC. 320. RIGHT-OF-WAY IN ALASKA CONSERVATION SYSTEM UNITS.

"Nothing in this Act shall be construed as exempting any proposal for any construction on or change in the scope, alignment, or character or extent of use of any portion of any right-of-way claimed to have been established pursuant to Revised Statutes section 2477 on any lands within any conservation system unit in Alaska from the requirements of title XI of the Alaska National Interest Lands Conservation Act.".

TITLE V—"IN LIEU" LAND CLAIMS

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to the invitation and requirements contained in the 15th paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended or supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 4, 1901 (31 Stat. 1010, 1037), and September 22, 1922 (42 Stat. 1067), certain landowners or entrymen within forest reserves acted to transfer their lands to the United States as the basis for an in lieu selection of other Federal lands (hereafter in this Act referred to as "lieu lands") in exchange for such lands within such reserves (hereafter in this Act referred to as "base lands").

(2) By the Act of March 3, 1905 (33 Stat. 1264), Congress repealed the in lieu selection provisions of the Act of June 4, 1897, as amended, and terminated the right to select lieu lands, but expressly preserved the rights of land owners who had valid pending applications for in lieu selections, most of which have subsequently been granted.

(3) Other persons affected by the Acts cited in paragraphs (1) and (2) who acted to transfer base lands, or their successors in interest, have never obtained either (A) a patent to the lieu lands or any other consideration for their relinquishment, or (B) a quitclaim of their base lands, notwithstanding relief legislation enacted in 1922 and 1930.

(4) By the Act of July 6, 1960 (74 Stat. 334), Congress established a procedure to compensate persons affected by the Acts cited in paragraphs (1) and (2) who had not received appropriate relief under prior legislation. However, no payments of such compensation were made under that Act.

(5) Section 4 of the Act of July 6, 1960, further provided that lands with respect to which compensation under that Act were or could have been made, and not previously disposed of by the United States, shall be a part of any national forest, national park, or other area withdrawn from the public domain wherein they are located.

(6) Absent further legislation, lengthy and expensive litigation will be required to resolve existing questions about the title to lands covered by section 4 of the 1960 Act.

(b) PURPOSE.—The purpose of this title is to resolve the status of the title to base lands affected by the past legislation cited in subsection (a).

SEC. 502. IDENTIFICATION AND QUITCLAIM OF FEDERAL INTEREST IN BASE LANDS.

(a) QUITCLAIM.—Except as otherwise provided by this Act, and subject to valid existing rights, but notwithstanding any other provision of law, the United States hereby quitclaims to the listed owner or entryman, his heirs, devisees, successors, and assigns, all right, title, and interest of the United States in and to the base lands described on a final list published pursuant to subsection (d)(1), effective on the date of publication of such list.

(b) PREPARATION OF INITIAL LISTS.—(1) Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior, with respect to lands under such Secretary's jurisdiction, and the Secretary of Agriculture with respect to National Forest System lands, shall each prepare an initial list of all parcels of base lands that were relinquished to the United States pursuant to the Act of June 4, 1897 (as amended), and for which selection or other rights under that Act or supplemental legislation were not realized or exercised.

(2) The initial lists prepared under paragraph (1) shall be based on information in the actual possession of the Secretaries of the Interior and Agriculture on the date of enactment of this Act, including information submitted to Congress pursuant to the directive contained in Senate Report No. 98-578, issued for the Fiscal Year 1985 Interior and Related Agencies Appropriation, as revised and updated. The initial lists shall be published and distributed for public review in accordance with procedures adopted by the Secretary concerned.

(3) For a period of 180 days after publication of a list pursuant to paragraph (2), persons asserting that particular parcels omitted from such a list should have been included may request the Secretary concerned to add such parcels to the appropriate list. The Secretary concerned shall add to the list any such parcels which the Secretary determines meet the conditions specified in paragraph (1).

(c) NATIONALLY SIGNIFICANT LANDS.—(1) During preparation or revision of an initial list under subsection (b), the Secretary concerned shall identify those listed lands which are located wholly or partially within any conservation system unit and all other listed lands which Congress has designated for specific management or which the Secretary concerned decides, in the concerned Secretary's discretion, should be retained in order to meet public, resource protection, or administrative needs. For purposes of this paragraph, the term "conservation system unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or National Wilderness Preservation System, a national forest monument, or a national conservation area, a national recreation area, or any lands being studied for possible designation as part of such a system or unit.

(2) The provisions of subsection (a) shall not apply to any lands identified by the Secretary concerned pursuant to paragraph (1). The Secretary concerned shall not include any such lands on any list prepared pursuant to subsection (d). Subject to valid existing rights arising from factors other than those described in subsection (b)(1), any right, title, and interest in and to lands identified pursuant to paragraph (1) and not previously vested in the United States is hereby vested and confirmed in the United States.

(3) In the same manner as the initial list was published and distributed pursuant to subsection (b)(2), the Secretary concerned shall publish and distribute an identification of all lands in which right, title, and interest is vested and confirmed in the United States by paragraph (2).

(d) FINAL LISTS.—(1) As soon as possible after considering any requests made pursuant to subsection (b)(3) and the identification of lands pursuant to subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall each publish a final list, consisting of lands included on each Secretary's initial list not identified pursuant to subsection (c)(1). Unless a Secretary has published a final list on or before the date 18 months after the date of publication, pursuant to subsection (b)(2), of such Secretary's initial list, the initial list prepared by such Secretary shall be deemed on such date to be the final list required to be published by such Secretary, and thereafter no lands included on such initial list shall be excluded from operation of subsection (a).

(2) If a court makes a final decision that a parcel of land was arbitrarily and capriciously excluded from operation of subsection (a), such parcel shall be deemed to have been included on a final list published pursuant to paragraph (1), unless such parcel is located wholly or partially inside a conservation system unit or any other area which Congress has designated for specific management, in which case such parcel shall be subject to the provisions of subsection (c)(2).

(e) ISSUANCE OF INSTRUMENTS.—(1) Except as otherwise provided in this title, no later than 6 months after the date on which the Secretary concerned publishes a final list of lands pursuant to subsection (d), the Secretary concerned shall issue deeds confirming the quitclaim made by subsection (a) of this section of all right, title, and interest of the United States in and to the lands included on such final list, subject to valid existing rights arising from factors other than a relinquishment to the United States of the type described in subsection (b). Each such confirmatory deed shall operate to estop the United States from making any claim of right, title, or interest of the United States in and to the base lands described in the deed, shall be made in the name of the listed owner or entryman, his heirs, devisees, successors, and assigns, and shall be in a form suitable for recordation and shall be filed and recorded by the United States with the recorder of deeds or other like official of the county or counties within which the lands covered by such confirmatory deed are located so that the title to such lands may be determined in accordance with applicable State law.

(2) The United States shall not adjudicate and, notwithstanding any provision of law to the contrary, does not consent to be sued in any suit instituted to adjudicate the ownership of, or to quiet title to, any base land included in a final list and described in a confirmatory deed.

(3) Neither the Secretary of the Interior nor the Secretary of Agriculture shall be required to inspect any lands included on a final list nor to inform any member of the public regarding the condition of such lands prior to the issuance of the confirmatory deeds required by this subsection, and nothing in this Act shall be construed as affecting any valid rights with respect to lands covered by a confirmatory deed issued pursuant to this subsection that were in existence on the date of issuance of such confirmatory deed.

(f) WAIVER OF CERTAIN CLAIMS AGAINST THE UNITED STATES.—Any person or entity accepting the benefits of this Act or failing to act to seek such benefits within the time allotted by this Act with respect to any base or other lands shall be deemed to have waived any claims against the United States, its agents or contractors, with respect to such lands, or with respect to any revenues received by the United States from such lands prior to the date of enactment of this Act. All non-Federal, third party rights granted by the United States with respect to base lands shall remain effective subject to the terms and conditions of the authorizing document. The United States may reserve any rights-of-way currently occupied or used for Government purposes.

SEC. 503. OTHER CLAIMS.

(a) JURISDICTION AND DEADLINE.—(1) Subject to the requirements and limitations of this section, a party claiming right, title, or interest in or to land vested in the United States by section 502(c)(2) of this title may file in the United States Claims Court a claim against the United States seeking compensation based on such vesting. Notwithstanding any other provision of law, the Claims Court shall have exclusive jurisdiction over such claim.

(2) A claim described in paragraph (1) shall be barred unless the petition thereon is filed within

1 year after the date of publication of a final list pursuant to section 502(d) of this title.

(3) Nothing in this title shall be construed as authorizing any claim to be brought in any court other than a claim brought in the United States Claims Court based upon the vesting of right, title, and interest in and to the United States made by section 502(c)(2) of this title.

(b) LIMITATIONS, DEFENSES, AND AWARDS.—(1) Nothing in this Act shall be construed as diminishing any existing right, title, or interest of the United States in any lands covered by section 502(c), including but not limited to any such right, title, or interest established by the Act of July 6, 1960 (74 Stat. 334).

(2) Nothing in this title shall be construed as precluding or limiting any defenses or claims (including but not limited to defenses based on applicable statutes of limitations, affirmative defenses relating to fraud or speculative practices, or claims by the United States based on adverse possession) otherwise available to the United States.

(3) Nothing in this title shall be construed as entitling any party to compensation from the United States. However, in the event of a final judgment of the United States Claims Court in favor of a party seeking such compensation, or in the event of a negotiated settlement agreement made between such a party and the Attorney General of the United States, the United States shall pay such compensation from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(c) SAVINGS CLAUSE.—This title does not include within its scope selection rights required to be recorded under the Act of August 5, 1955 (69 Stat. 534), regardless of whether compensation authorized by the Act of August 31, 1964 (73 Stat. 751) was or was not received.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 505. TIME EXTENSION.

Section 103(c) of the Wildfire Disaster Recovery Act of 1989 (16 U.S.C. 551 note) is amended in the first sentence by striking out "1991" and inserting in lieu thereof "1992".

TITLE VI—SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA

SEC. 601. FINDINGS.

The Congress finds the following:

(1) The public lands managed by the Bureau of Land Management in the State of Idaho within the Snake River Birds of Prey Area contain one of the densest known nesting populations of eagles, falcons, owls, hawks, and other birds of prey (raptors) in North America.

(2) These public lands constitute a valuable national biological and educational resource since birds of prey are important components of the ecosystem.

(3) These public lands also contain important historic and cultural resources as well as other resources and values, all of which should be protected and appropriately managed.

(4) A military training area within the Snake River Birds of Prey Area, known as the Orchard Training Area, has been used since 1953 by reserve components of the Armed Forces. Military use of this area is currently governed by a Memorandum of Understanding between the Bureau of Land Management and the State of Idaho Military Division, dated May 1985. Operating under this Memorandum of Understanding, the Idaho National Guard has provided valuable assistance to the Bureau of Land Management with respect to fire control and other aspects of management of the Orchard Training Area and the other lands in the Snake River Birds of Prey Area. Military use of the lands within the Orchard Training Area should continue in accordance with such Memorandum of Understanding (or extension or renewal thereof), to the extent consistent with section 604(e) of this title, because this would be in the best interest of training of the reserve components (an important aspect of national security) and of the local economy.

(5) Protection of the conservation area as a home for raptors can best and should be accomplished by the Secretary of the Interior, acting through the Bureau of Land Management, under a management plan that—

(A) emphasizes management, protection, and rehabilitation of habitat for these raptors and of other resources and values of the area;

(B) provides for continued military use, consistent with the requirements of section 604(e) of this title, of the Orchard Training Area by reserve components of the Armed Forces;

(C) addresses the need for public educational and interpretive opportunities;

(D) allows for diverse appropriate uses of lands in the area to the extent consistent with the maintenance and enhancement of raptor populations and habitats and protection and sound management of other resources and values of the area; and

(E) demonstrates management practices and techniques that may be useful to other areas of the public lands and elsewhere.

(6) There is established near the conservation area a facility, the World Center for Birds of Prey operated by The Peregrine Fund, Inc., where research, public education, recovery, and reestablishment operations exist for endangered raptor species. There is also established at Boise State University a raptor study program which attracts national and international graduate and undergraduate students.

(7) The Bureau of Land Management and Boise State University, together with other State, Federal, and private entities, have formed the Raptor Research and Technical Assistance Center to be housed at Boise State University, which provides a unique adjunct to the conservation area for raptor management, recovery, research, and public visitation, interpretation, and education.

(8) Consistent with requirements of sections 202 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1732), the Secretary has developed a comprehensive management plan and, based on such plan, has implemented a management program for the public lands included in the conservation area established by this title.

(9) Additional authority and guidance must be provided to assure that essential raptor habitat remains in public ownership, to facilitate sound and effective planning and management, to provide for effective public interpretation and education, to ensure continued study of the relationship of humans and these raptors, to preserve the unique and irreplaceable habitat of the conservation area, and to conserve and properly manage the other natural resources of the area in concert with maintenance of this habitat.

(10) An ongoing research program funded by the Bureau of Land Management and the National Guard is intended to provide information to be used in connection with future decision-making concerning management of all uses, including continued military use, of public lands within the Snake River Birds of Prey Area.

(11) The public lands in the Snake River Birds of Prey Conservation area have been used for domestic livestock grazing for more than a century. Appropriate protection and sound management of raptor habitat and the other resource values of this land would not preclude continuation of this use which has provided major economic contributions and stability to the local and State economies.

(12) Hydroelectric facilities for the generation and transmission of electricity exist within the Snake River Birds of Prey Area pursuant to a license(s) issued by the Federal Energy Regulatory Commission, or its predecessor, the Federal Power Commission.

SEC. 602. DEFINITIONS.

As used in this title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "conservation area" means the Snake River Birds of Prey National Conservation Area established by section 603.

(3) The term "raptor" or "raptors" means individuals or populations of eagles, falcons, owls, hawks, and other birds of prey.

(4) The term "raptor habitat" includes the habitat of the raptor prey base as well as the nesting and hunting habitat of raptors within the conservation area.

(5) The term "Memorandum of Understanding" means the Memorandum of Understanding #ID-237, dated May 1985, between the State of Idaho Military Division and the Bureau of Land Management.

(6) The term "Orchard Training Area" means that area generally so depicted on the map referred to in section 603(b), and as described in the Memorandum of Understanding as well as the air space over the same.

(7) The term "Impact Area" means that area which was used for the firing of live artillery projectiles and is used for live fire ranges of all types and, therefore, poses a danger to public safety and which is generally so depicted on the map referred to in section 603(b).

(8) The term "Artillery Impact Area" means that area within the Impact Area into which live projectiles are fired, which is generally described as that area labeled as such on the map referred to in section 603(b).

(9) The term "the plan" means the comprehensive management plan developed for the conservation area, dated August 30, 1985, together with such revisions thereto as may be required in order to implement this title.

(10) The term "hydroelectric facilities" means all facilities related to the generation, transmission, and distribution of hydroelectric power and which are subject to, and authorized by, a license(s), and any and all amendments thereto, issued by the Federal Energy Regulatory Commission.

SEC. 603. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) PURPOSES AND ESTABLISHMENT.—In order to provide for the conservation, protection, and enhancement of raptor populations and habitats, and the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area, there is hereby established the Snake River Birds of Prey National Conservation Area.

(b) AREA INCLUDED.—The conservation area shall consist of approximately 482,457 acres of federally owned lands and interests therein managed by the Bureau of Land Management as generally depicted on the map entitled "Snake River Birds of Prey National Conservation Area", dated November 1991.

(c) MAP AND LEGAL DESCRIPTION.—As soon as is practicable after enactment of this Act, the map referred to in subsection (b) and a legal description of the conservation area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map shall have the same force and effect as if included in this title; except that the Secretary may correct clerical and typographical errors in such map and legal description. Each such map shall have

the same force and effect as if included in this title; except that the Secretary may correct clerical and typographical errors in such map and legal description. Each such map shall be on file and available for public inspection in the office of the Director and the Idaho State Director of the Bureau of Land Management of the Department of the Interior.

(d) WITHDRAWALS.—Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal (except as provided in paragraph (3)) under the public land laws; and from entry, application, and selection under the Act of March 3, 1877 (Ch. 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly referred to as the "Desert Lands Act"), section 4 of the Act of August 18, 1894 (Ch. 301, 28 Stat. 422; 43 U.S.C. 641; commonly referred to as the "Carey Act"), the Act of July 3, 1890 (Ch. 656, 26 Stat. 215; commonly referred to as the "State of Idaho Admissions Act"), section 2275 of the Revised Statutes, as amended (43 U.S.C. 851), and section 2276 of the Revised Statutes, as amended (43 U.S.C. 852). The Secretary shall return to the applicants any such applications pending on the date of enactment of this Act, without further action. Subject to valid existing rights, as of the date of enactment of this Act, lands within the Birds of Prey Conservation Area are withdrawn from location under the general mining laws, the operation of the mineral and geothermal leasing laws, and the mineral material disposal laws.

SEC. 604. MANAGEMENT AND USE.

(a) IN GENERAL.—(1)(A) Within 1 year after the date of enactment of this Act, the Secretary shall finalize a management plan that is in conformance with the requirements of this title.

(B) Thereafter, the Secretary shall review the plan at least once every 4 years and shall make such revisions as may be necessary or appropriate.

(C) In reviewing and revising the plan, the Secretary shall provide for appropriate public participation.

(2) Except as otherwise specifically provided in subsections (d), (e), and (f) of this section, the Secretary shall allow only such uses of lands in the conservation area as the Secretary determines will further the purposes for which the Conservation Area is established.

(b) MANAGEMENT GUIDANCE.—After each review pursuant to subsection (a), the Secretary shall make such revisions as may be needed so that the plan and management program to implement the plan include, in addition to any other necessary or appropriate provisions, provisions for—

(1) protection for the raptor populations and habitats and the scientific, cultural, and educational resources and values of the public lands in the conservation area;

(2) identifying levels of continued military use of the Orchard Training Area compatible with paragraph (1) of this subsection;

(3) public use of the conservation area consistent with the purposes of this title;

(4) interpretive and educational opportunities for the public;

(5) a program for continued scientific investigation and study to provide information to support sound management in accordance with this title, to advance knowledge of raptor species and the resources and values of the conservation area, and to provide a process for transferring to other areas of the public lands and elsewhere this knowledge and management experience;

(6) such vegetative enhancement and other measures as may be necessary to restore or enhance prey habitat;

(7) the identification of levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be compatible with the protection, maintenance, and enhancement of raptor populations and habitats and the other purposes for which the conservation area is established; and

(8) assessing the desirability of imposing appropriates fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, which are not now subject to fees, to be used to further the purposes for which the conservation area is established.

(c) VISITORS CENTER.—The Secretary, acting through the Director of the Bureau of Land Management, is authorized to establish, in cooperation with other public or private entities as the Secretary may deem appropriate, a visitors center designed to interpret the history and the geological, ecological, natural, cultural, and other resources of the conservation area and the biology of the raptors and their relationships to man.

(d) VISITORS USE OF AREA.—In addition to the Visitors Center, the Secretary may provide for visitor use of the public lands in the conservation area to such extent and in such manner as the Secretary considers consistent with the protection of raptors and raptor habitat, public safety, and the purposes for which the conservation area is established. To the extent practicable, the Secretary shall make available to visitors and other members of the public a map of the conservation area and such other educational and interpretive materials as may be appropriate.

(e) NATIONAL GUARD USE OF THE AREA.—(1) Pending completion of the ongoing research concerning military use of lands in the conservation area, or until the date 5 years after the date of enactment of this Act, whichever is the shorter period, the Secretary shall permit continued military use of those portions of the conservation area known as the Orchard Training Area in accordance with the Memorandum of Understanding, to the extent consistent with the use levels identified pursuant to subsection (b)(2) of this section.

(2) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall review the management plan and make such additional revisions therein as may be required to assure that it meets the requirements of this title.

(3) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall submit to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of the results of such research.

(4) Nothing in this title shall preclude minor adjustment of the boundaries of the Orchard Training Area in accordance with provisions of the Memorandum of Understanding.

(5) After completion of the ongoing research concerning military use of lands in the Orchard Training Area or after the date 5 years after the date of enactment of this Act, whichever first occurs, the Secretary may continue to permit military use of such lands, but only to the extent the Secretary, on the basis of such research, determines such use is compatible with the purposes set forth in section 603(a). Any such use thereafter shall be permitted in accordance with the Memorandum of Understanding, which may be extended or renewed by the Secretary so long as such use continues to meet the requirements of subsection (b)(2) of this section.

(6) In accordance with the Memorandum of Understanding, the Secretary shall require the State of Idaho Military Division to insure that military units involved maintain a program of decontamination.

(7) Nothing in this title shall be construed as by itself precluding the extension or renewal of the Memorandum of Understanding, or the construction of any improvements or buildings in the Orchard Training Area so long as the requirements of this subsection are met.

(f) LIVESTOCK GRAZING.—Notwithstanding section 604(a)(2) of this title, domestic livestock grazing can occur on public lands within the conservation area, to the extent the Secretary determines such use of such lands is compatible with the purposes for which the conservation area is established. Any such grazing, and activities the Secretary determines necessary to carry out proper and practical grazing management programs (such as animal damage control activities) shall be managed in accordance with the Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly referred to as the "Taylor Grazing Act"), section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), other laws applicable to such use and programs on the public lands, and the management plan for the conservation area.

(g) COOPERATIVE AGREEMENTS.—The Secretary is authorized to provide technical assistance to, and to enter into such cooperative agreements and contracts with, the State of Idaho and with local governments and private entities as the Secretary deems necessary or desirable to carry out the purposes and policies of this title.

(h) AGRICULTURAL PRACTICES.—Nothing in this title shall be construed as constituting a grant of authority to the Secretary to restrict recognized agricultural practices or other activities on private land adjacent to or within the conservation area boundary.

(i) HYDROELECTRIC FACILITIES.—Notwithstanding any provision of this title, or regulations and management plans undertaken pursuant to its provisions, the Federal Energy Regulatory Commission shall retain its current jurisdiction concerning all aspects of the continued and future operation of hydroelectric facilities, licensed or relicensed under the Federal Power Act (16 U.S.C. 791a et seq.), located within the boundaries of the conservation area.

SEC. 605. ADDITIONS.

(a) ACQUISITIONS.—(1) The Secretary is authorized to acquire lands and interests therein within the boundaries of the conservation area by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that such lands or interests owned by the State of Idaho or a political subdivision thereof may be acquired only by donation or exchange.

(2) Any lands located within the boundaries of the conservation area that are acquired by the United States on or after the date of enactment of this Act shall become a part of the conservation area and shall be subject to this title.

(b) PURCHASE OF LANDS.—In addition to the authority in section 318(d) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1748) and notwithstanding section 7(a) of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601-9(a)), monies appropriated from the Land and Water Conservation Fund may be used as authorized in section 5(b) of the Endangered Species Act of 1973 (16 U.S.C. 1534(b)), for the purposes of acquiring lands or interests therein within the conservation area for administration as public lands as a part of the conservation area.

(c) LAND EXCHANGES.—The Secretary shall within 4 years of enactment, study, identify, and initiate voluntary land exchanges which would resolve ownership related land use conflicts within the conservation area.

SEC. 606. OTHER LAWS AND ADMINISTRATIVE PROVISIONS.

(a) OTHER LAWS.—(1) Nothing in this title shall be construed to supersede, limit, or otherwise affect administration and enforcement of

the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or to limit the applicability of the National Trails System Act to any lands within the conservation area.

(2) Except as otherwise specifically provided in this title, nothing in this title shall be construed as limiting the applicability to lands in the conservation area of laws applicable to public lands generally, including but not limited to the National Historic Preservation Act, the Archaeological Resources Protection Act of 1979, or the Native American Graves Protection and Repatriation Act.

(3) Nothing in this title shall be construed as by itself altering the status of any lands that on the date of enactment of this Act were not managed by the Bureau of Land Management.

(4) Nothing in this title shall be construed as prohibiting the Secretary from engaging qualified persons to use public lands within the conservation area for the propagation of plants (including seeds) to be used for vegetative enhancement of the conservation area in accordance with the plan and in furtherance of the purposes for which the conservation area is established.

(b) RELEASE.—The Congress finds and directs that the public lands within the Snake River Birds of Prey Natural Area established as a natural area in October 1971 by Public Land Order 5133 have been adequately studied and found unsuitable for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976. Such lands are hereby released from further management pursuant to section 603(c) of such an Act and shall be managed in accordance with other applicable provisions of law, including this title.

(c) EXISTING ADMINISTRATIVE WITHDRAWAL TERMINATED.—Public Land Orders 5133 dated October 12, 1971, and 5777 dated November 21, 1980, issued by the Secretary are hereby terminated.

(d) WATER RIGHTS.—(1) Nothing in this title or any action taken pursuant thereto shall constitute either an expressed or implied reservation of water or water rights for any purpose.

(2) Nothing in this title shall be construed as effecting a relinquishment or reduction of any of the water rights held or claimed by the United States within the State of Idaho or elsewhere on or before the date of enactment of this Act.

(3)(A) The Congress finds that the United States is currently a party in an adjudication of rights to waters of the Snake River, including water rights claimed by the United States on the basis of the reservation of lands for purposes of conservation of fish and wildlife.

(B) The Secretary and all other officers of the United States shall take all steps necessary to protect all water rights claimed by the United States in the Snake River adjudication now pending in the district court of the State of Idaho in which the United States is joined under section 208 of the Act of July 10, 1952 (66 Stat. 560; 43 U.S.C. 666; commonly referred to as the "McCarran Amendment").

(e) ENFORCEMENT.—Any person who violates any regulation promulgated by the Secretary to implement the provisions of this title shall be subject to a fine in accordance with applicable provisions of title 18, United States Code, imprisonment of not more than 1 year, or both.

SEC. 607. MOSCOW MOUNTAIN LANDS.

(a) ACQUISITION.—If the State of Idaho offers to transfer to the United States the lands described in subsection (c), the Secretary of the Interior, on behalf of the United States, shall accept such lands.

(b) MANAGEMENT.—(1) If transferred to the United States, the lands described in subsection (c) shall be managed by the Secretary of the Interior, through the Director of the Bureau of Land Management, in the same manner as lands which on the date of enactment of this Act were subject to section 603(c) of the Federal Land Policy and Management Act of 1976.

(2) Effective upon their transfer to the United States, the lands described in subsection (c) are withdrawn from entry and patent under the mining laws of the United States and from the operation of the geothermal and mineral leasing laws of the United States.

(3) If the lands described in subsection (c) are transferred to the United States, the Secretary of the Interior, pursuant to section 206 of the Federal Land Policy and Management Act of 1976, shall convey to the State of Idaho public lands identified, pursuant to such Act, as suitable for disposal by exchange or otherwise that are equal to value to the value of the lands described in subsection (c).

(c) LANDS AFFECTED.—The lands referred to in subsections (a) and (b) are:

Township 40 North, Range 4 West, B.M. (East Moscow Mountain)

Section 16: Lots 1–4, S½S½NW¼, N½SW¼, that portion of the NW¼SE¼ lying south and west of the mid-line running from the parcel's NW¼ corner to its SE¼ corner, containing 295.6 acres, more or less.

(d) ADDITIONAL AUTHORITY.—Notwithstanding subsection (a), the Secretary of the Interior may transfer the lands described in subsection (c) to the County of Latah, Idaho, in return for lands of equal value in Idaho acceptable to the Secretary for management pursuant to the Federal Land Policy and Management Act of 1976 if such county enters into a binding agreement with the Secretary under which the county agrees to manage such lands in the same manner as provided in subsection (b)(1).

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

The SPEAKER pro tempore (Mr. BILBRAY). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado (Mr. ALLARD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1183, the Senate bill now under consideration.

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

There was no objection.

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

Mr. Speaker, S. 1183 as passed by the Senate dealt only with certain lands in Kaysville, UT. It is intended to make clear that these lands, granted to Kaysville by the United States in 1926, can continue to be used for an existing communications facility and for recreational purposes.

The Interior Committee amended the bill by adopting an amendment in the nature of a substitute, grouping into one package a number of measures, most of which have already passed the house but have not yet been acted on by the Senate.

As reported, the bill has six titles. Title I corresponds to the Senate provisions related to Kaysville and adds another section, proposed by Mr. HANSEN of Utah, relating to an equal value exchange between the State of Utah and the United States involving a State inholding in the Bear River Refuge.

Title II is identical to H.R. 4404, a bill introduced by the gentleman from Colorado, Mr. HEFLEY, at the request of the administration, which already has been passed by the House. It provides for withdrawal for military purposes of certain lands and minerals in Colorado.

Title III corresponds to H.R. 3693, introduced by the gentleman from Idaho, Mr. LAROCCO. It provides for adjustment of the boundary of the Targhee National Forest and a land exchange involving the Kaniksu National Forest, both in Idaho.

Title IV deals with rights-of-way, and has two sections. The first section of title IV corresponds to H.R. 4587, a bill introduced by the gentlewoman from Nevada [Mrs. VUCANOVICH], and cosponsored by all three members of the Utah delegation here in the House as well as by the gentleman from Idaho [Mr. LAROCCO].

This section would establish a corridor through the Sunrise Mountain area, near Las Vegas, for electrical transmission lines. This is a measure that is very important to Utah and California as well as Nevada, since the Sunrise Mountain area is part of the likely route of future lines from generating stations in Utah to serve markets in Nevada and southern California.

The second section is identical to section 15 of H.R. 1096, the BLM reauthorization bill, as passed by the House last year. This section deals with the status of claims for highway rights-of-way based on a 19th century law, known as Revised Statute Section 2477, before its repeal in 1976. This is a very important matter of public land policy, with particular importance because of the problems that these claims can present to management of wilderness, wilderness study areas, national parks, and other roadless portions of the Federal lands.

This part of the bill requires that parties claiming to have secured a right-of-way under the old law come in and record their claims in a timely way, so that they can be reviewed and, if valid, confirmed. It also provides that in Alaska, rights-of-way in national parks, national wildlife refuges, and other conservation areas will continue to be governed by the relevant provisions of the Alaska Land Act of 1980.

Title V of the substitute is identical to H.R. 1514, by the gentleman from California [Mr. LAGOMARSINO], an important bill to resolve the problems of several thousand occupants of lands in a number of western States whose titles are clouded by possible Federal interests based on another 19th-century

law. This bill has also already passed the House, but the Senate has not completed action on it.

Finally, title VI is similar to H.R. 2141, to establish the Snake River birds of prey bill introduced by Mr. LAROCCO and passed by the House last year. In an effort to complete action on this matter this year, we have made certain adjustments in the legislation, to respond to some concerns expressed in the Senate, while still retaining the essential elements of the House-passed bill, in particular the careful balancing of provisions to protect the very special resources and values of this area while recognizing and accommodating established uses of the lands involved, including military uses. Mr. LAROCCO has been very diligent and creative in working on this important measure, and it is our hope that the Senate will concur in the carefully drawn compromise version that is in title VI of S. 1183.

In summary, Mr. Speaker, this bill as reported is an omnibus measure that deals with a number of diverse matters involving the management of the Federal lands. I urge its passage and it is my hope that the Senate will accept it so that these matters can be resolved quickly in the short time left before the end of this session.

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

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

Mr. Speaker, I rise in support of H.R. 1183, although I am strongly opposed to one section of the bill.

S. 1183, which started out as a bill dealing entirely with lands near Kaysville, UT, has become an omnibus public lands bill during the last 2 weeks of the 102d Congress. This was necessary because many noncontroversial measures passed by the full House or the Interior Committee are in danger of not being enacted because the other body has not moved them as fast as we have here in the House.

Bills in this category that are included in S. 1183 include Mr. HEFLEY's bill concerning a military land withdrawal for Fort Carson and Pinon Canyon maneuver area in Colorado, Mr. STALLINGS' Forest Service land exchange bill, and Mrs. VUCANOVICH's Sunrise Mountain utility corridor bill.

Unfortunately, Chairman VENTO has added to this bill a very controversial section 402 dealing with rights-of-way in as many as 30 States. The Subcommittee on National Parks and Public Lands did not hold one hearing in this Congress on this very controversial and complex issue.

Section 402, dealing with RS 2477 rights-of-way, would deprive counties, States, municipalities, and individual citizens of much of their current right of access into and through Federal land. It sets into motion an expensive, onerous, and unworkable process to investigate and adjudicate these property rights that were previously secure and unquestioned. It might actually result in an unconstitutional taking of private property by the Federal Government without compensation.

The Congressional Budget Office estimates that this section could cost States and counties between $5 and $50 million. Mr. Speaker, so it should be no surprise that this provision is strongly opposed by many Governors, county commissioners, and State and local departments of transportation. Moreover, it is opposed by the administration.

I would like to include for the record letters opposing this same provision when it was inserted in the BLM authorization bill last year. These letters are from the Governors of Alaska and Utah and the departments of transportation for Arizona and North Dakota.

Section 402 is not acceptable to Senator GARN, who was the original sponsor of S. 1183. I fully expect that he will delete this provision from the bill and send S. 1183 back to the House.

STATE OF UTAH,
SALT LAKE CITY, UT,
May 22, 1991.

Hon. GEORGE MILLER,
Chairman, House Committee on Interior and Insular Affairs, Washington, DC.

DEAR CONGRESSMAN MILLER: It has come to my attention, and if my perception is correct, that there is being considered by your committee proposed amendments to H.R. 1096, which imposes new conditions on the use of public right of way across public lands obtained earlier under Revised Statute 2477.

The state of Utah consists of 65 percent federal ownerships of land operated and managed by the Bureau of Land Management, U.S. Forest Service, National Park Service, and the Department of Defense. Indeed, in Southern Utah federal holdings are vast and constitute a majority of land ownership.

Needless to say, state and local highways in Utah occupy extensive mileage on public lands, particularly the Bureau of Land Management. Our Utah Department of Transportation, working through the Utah Division of the Federal Highway Administration, has developed a procedure that has been practiced for many years where public land is applied for and permitted by the appropriate federal agency.

It would seem redundant and will certainly require the commitment of huge resources in time and money for both federal, state, and local personnel to reapply and issue new permits if this is the intent of the proposed amendments. It would seem reasonable to exempt public highways, roads, and streets from this requirement or to require reapplication on an exception basis where it is known by local federal land managers that no permit exists or it is flawed in some respect.

I would like to remind you of the severe budgetary restraints that all levels of government are experiencing and plead for a more cost effective resolution of the problems that are precipitating the course projected by the amendments to H.R. 1096.

Here in Utah, we appreciate the use of federal lands for our public road system; for without it, we would have extreme isolation in some of our rural areas. Over the years, federal land managers have generally been very cooperative and supported our needs to the full extent allowed by their management practices. In return, we have tried to deal honestly and forthrightly in meeting our obligations for permitted privileges.

Sincerely,

NORMAN H. BANGERTER,
Governor.

ARIZONA DEPARTMENT OF
TRANSPORTATION,
Phoenix, AZ, June 3, 1991.

Hon. JON KYL,
Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE KYL: I am writing regarding a proposed amendment by Congressman Vento to H.R. 1096, the Bureau of Land Management Reauthorization bill. This amendment would mandate that any party holding rights-of-way across public lands for highway construction must undergo a lengthy validation process.

In Arizona, all fifteen counties, the state and some cities and towns claim rights-of-way under RS 2477. Under the proposed amendment, each of these entities will be required to undertake major research projects to document claims to rights-of-way established prior to October 21, 1976. Some of these claims date back to territorial days. It would be an extremely costly process to undertake. It is doubtful that smaller counties such as Mohave would have the financial resources and personnel required to research many of their unpaved roads.

This amendment will also pose a hardship on other western states, which have relied very heavily on RS 2477 to establish their highway systems. This process would certainly thwart and delay our efforts to expand the state's transportation network in response to community economic development needs. I urge you to assist us in either defeating this amendment to H.R. 1096, or in exempting governmental entities from the right-of-way validation process. If you need any further information, please do not hesitate to contact me.

Thank you for your assistance with this issue.

Sincerely,

JAMES S. CREEDON,
Acting Director.

NORTH DAKOTA DEPARTMENT
OF TRANSPORTATION,
Bismarck, ND, July 19, 1991.

Hon. BYRON L. DORGAN,
House of Representatives, Cannon Office Building, Washington, DC.

DEAR REPRESENTATIVE DORGAN: This letter is in regard to a proposed amendment by Congressman Vento to H.R. 1096, which is the Bureau of Land Management Reauthorization bill. This amendment would require our Department, counties, townships, and possibly cities to validate rights of way for both existing and proposed roads which cross public lands.

We especially object to such a law because of the bureaucratic nightmare it would create. This would duplicate the efforts previously made to clear the rights of way. We are not staffed to again process paperwork of highly questionable value.

The position of this Department is that the amendment should be defeated.

Please contact us if additional information should be required.

Sincerely,

RICHARD J. BACKES,
Commissioner/Director.

STATE OF ALASKA
Juneau, AK, May 8, 1991.

Hon. GEORGE MILLER,
Chairman, House Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my deep concern about proposed amendments to H.R. 1096 which would impose new and unwarranted restrictions on the assertion and use of rights-of-way created under former Revised Statute 2477.

The amendments raise significant legal, policy, and funding issues for the federal government, states, counties, and in individual citizens. Accordingly, I believe that at a minimum, Committee action on RS-2477 should be postponed pending public notice and hearings.

Beyond this, we feel that the amendments are unwarranted on substantive grounds. As you know, the second amendment would require the use of Title XI of ANILCA for any construction, realignment, change in use, or modification of the scope or extent of the right-of-way created under RS-2477 in Alaska.

If this were good public policy—and it is not—it should be applied nationwide. Further, the Title XI process, which has not been used once since the enactment of ANILCA, is convoluted and complicated. To require the application of this provision for every change in construction, use, extent, or realignment of an RS-2477 right-of-way in Alaska would impose extreme and unnecessary burdens on the State and local governments and on private citizens.

In addition, the amendment raises important legal issues. Trails, roads, and highways accepted under RS-2477 prior to the repeal of the statute in 1976, established property rights (easements) in the affected lands. These easements conveyed certain rights of access which have consistently been confirmed by courts. Accordingly, to impose the onerous procedures contained in Title XI could well constitute a taking without compensation under the Fifth Amendment.

Finally, there is simply no evidence to suggest that the existing body of law and procedure concerning RS-2477 is inadequate to protect federal interests in Alaska. Thus, I object strongly to this amendment, because it singles out my State for discriminatory treatment and because there is no justification to support its enactment.

The first amendment also contains several significant flaws. First, by requiring holders of rights-of-way to file notice and other information prior to January 1994, the amendment would impose unwarranted burdens on governments and private citizens. In most situations, the existence of rights-of-way is already well known to federal land managers and the public In Alaska, rights-of-way under RS-2477 have generally been inventoried. This is particularly true in the case of federal conservation system units, where the appendix to each management plan lists possible rights-of-way in a specific unit.

Second, by requiring federal officials to "investigate" each assertion of an RS-2477 right-of-way, the amendment would impose expensive and unnecessary burdens on federal officials and on persons defending the assertion of a particular right-of-way. Again, there is no evidence that existing procedures are not adequate to protect federal interests. Thus, under existing law, federal officials investigate RS-2477 assertions when particular land use conflicts or other problems arise. In the vast majority of circumstances, however, there are few problems with right-of-way usage, and a blanket requirement to investigate would accomplish little.

Third, the amendment would mandate new contest procedures, replacing a regime which has worked quite well. Further, the amendment would appear to give standing to virtually every member of the general public. Current standing requirements help ensure fair and orderly administrative consideration, and we see no reason to expand them in the current circumstance.

Fourth, the amendment would provide that a particular right-of-way is invalid prior to the completion of an administrative adjudication, thereby providing the Secretary with significant discretion to deny access. Consequently, a claimant could be involved in two administrative procedures simultaneously—a defense of his RS-2477 right-of-way and an application to the Secretary to continue access prior to final adjudication. In addition, the amendment would shift the burden of proof in the administrative proceeding from the Secretary to the claimant. We believe that this approach is inconsistent with the concept of an RS-2477 right-of-way as a valid property right.

In closing, I want to reiterate my belief that the existing body of law and procedure, which has evolved over the course of more than a century, is perfectly capable of protecting the interests of all concerned, including the federal government. The changes mandated by the two amendments would, therefore, create significant burdens on nonfederal parties, require substantial increases in federal appropriations, and engender confusion and needless conflict—without improving land management in the western states.

We perceive other problems with H.R. 1098 which we will communicate separately to you and your staff.

Thank you for your consideration of my views.

With best regards.

Sincerely,

WALTER J. HICKEL,
Governor.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1183, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADJUSTING BOUNDARIES OF SIOUX RANGER DISTRICT OF CUSTER NATIONAL FOREST

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4087) to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4087

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

SECTION 1. SIOUX RANGER DISTRICT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—In accordance with the Act entitled "An Act to consolidate national forest lands", approved March 20, 1922 (16 U.S.C. 485 et seq.), and in exchange for national forest lands in Custer National Forest, the Secretary of Agriculture may accept title to any lands located within 5 miles of the exterior boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest that are not owned by the United States and that are found by the Secretary of Agriculture to be chiefly valuable for national forest purposes.

(b) INCORPORATION INTO CUSTER NATIONAL FOREST.—Upon acceptance of title by the Secretary of Agriculture, lands conveyed to the United States in accordance with subsection (a) shall become part of the Custer National Forest.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4087, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4087 was introduced by my colleague on the Interior Committee from South Dakota, Mr. JOHNSON.

H.R. 4087 would give the South Dakota portion of the Sioux Ranger District of the Custer National Forest the same 51 mile boundary extension authority that has been given to the rest of the national forest lands in South Dakota. This authority would allow the Forest Service to acquire lands through land exchanges within 5 miles of the exterior boundaries of the national forest and then add the lands to the national forest. Several other national forests in the West have similar authority.

The immediate result of this legislation would be to allow an exchange negotiated by the Forest Service with the Cave Hills Cattle Company, Inc. to proceed, which would add to the national forest 440 acres of riparian wildlife habitat in exchange for 800 acres of Forest Service lands with little or no water. The parcels have been appraised and this would be an equal value exchange. This legislation would also facilitate future land exchanges as well.

The bill is noncontroversial and is supported by the administration. I urge my colleagues to support it.

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

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

Mr. Speaker, I rise in support of H.R. 4087, introduced by Mr. JOHNSON of South Dakota.

This legislation would authorize a 5-mile boundary extension of the Sioux Ranger District of the South Dakota portion of the Custer National Forest. This would allow the Forest Service to proceed with several land exchanges that are located just outside the current forest boundary.

Both the Black Hills National Forest and the Montana portions of the Custer National Forest were given authority by Congress in the 1920's to engage in land exchanges up to 5 miles from their forest boundary. The Sioux Ranger District was unintentionally omitted from Congress' action in the 1920's.

I note that the administration supports this legislation. I urge my colleagues to support H.R. 4087.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4087, as amended.

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

A motion to reconsider was laid on the table.

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CONSTRUCTION OF CUMBERLAND MOUNTAIN TRAIL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5119) to authorize the construction of the Cumberland Mountain Trail in the States of Kentucky and Virginia, to study the establishment of the Cumberland National Recreation Area in the State of Kentucky and Virginia, and for other purposes

The Clerk read as follows:

H.R. 5119

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

SECTION 1. CUMBERLAND MOUNTAIN TRAIL.

(a) CONSTRUCTION.—The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") shall construct the Cumberland Mountain Trail as outlined in the design narrative entitled "Design Narrative: Cumberland Mountain Trail and Related Facilities" and on file at the Clinch Ranger District Office, Wise, Virginia. In addition to the facilities outlined in the design narrative, the Secretary shall provide for restrooms and picnic areas at or adjacent to the trailhead parking areas described in the design narrative. The trail shall be available for horseback riding.

(b) STUDY.—The Secretary shall study the feasibility of establishing a national recreation trail, encompassing the Cumberland Mountain Trail and extending from Breaks Interstate Park to Cumberland Gap National Historical Park. The Secretary is hereby authorized to construct such trail. Such trail shall be available for horseback riding. Not later than 2 years after the date of enactment of this Act, the Secretary shall submit, in writing, the results of such study to the Committees on Interior and Insular Affairs and Appropriations of the House of Representatives and to the Committees on Energy and Natural Resources and Appropriations of the Senate.

SEC. 2. NATIONAL RECREATION AREA STUDY.

(a) DIRECTIVE.—The Secretary shall study the feasibility of establishing a Cumberland National Recreation Area in order to conserve, protect, restore, and enhance the recreational, scenic, ecological, wildlife, vegetation, and historical and cultural resources of the Cumberland Mountains. Not later than 2 years after the date of enactment of this Act, the Secretary shall submit, in writing, the results of such study to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

(b) SUBJECT MATTER.—(1) The study required pursuant to subsection (a) shall identify alternative boundaries for a national recreation area on lands within and around Jefferson National Forest. Alternative boundaries shall include (but not be limited to) the boundaries generally depicted on the maps entitled "Cumberland National Recreation Area—Proposed" (dated February 21, 1992), "Cumberland National Recreation Area—Proposed" (dated March 26, 1992), and "Cumberland National Recreation Area—Proposed" (dated March 27, 1992). Such maps shall be on file at the Clinch Ranger District Office, Wise, Virginia. Such study shall make a recommendation as to which alternative would—

(A) best conserve, protect, restore, and enhance the recreational, scenic, ecological, wildlife, vegetation, historical, and cultural resources of the Cumberland Mountains;

(B) best promote rural community economic development in the region; and

(C) minimize disruptions to current business activities and to current uses of private lands.

(2) Such study shall—

(A) Identify the costs of land acquisition and the resource values of the various alternative boundaries identified pursuant to this subsection;

(B) identify any likely problem that would be presented by the establishment of such national recreation area and shall identify and recommend possible solutions to such problems;

(C) examine the feasibility of constructing and operating downhill ski trails within such national recreation area; and

(D) explore the possibility of incorporating Breaks Interstate Park within such national recreation area.

(c) CONSULTATIONS.—In conducting the study required pursuant to subsection (a), the Secretary shall consult with other Federal agencies, officials of the States of Kentucky and Virginia, officials of the local governments in the area within and around Jefferson National Forest, local property owners, local businesses, environmental groups, the Breaks Interstate Park Commission, and other interested groups.

SEC. 3. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore (Mr. BILBRAY). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5119, the bill presently under consideration .

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

There was no objection.

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

Mr. Speaker, H.R. 5119 deals with the Cumberland Mountain region of the Jefferson National Forest along the Kentucky-Virginia border. The bill was introduced by Congressman PERKINS and would require the Forest Service to construct a 26-mile Cumberland Mountain Trail, to study the feasibility of establishing a 120-mile national recreation trail and to study the feasibility of designating a Cumberland National Recreation area of approximately 100,000 acres in size.

The Cumberland Mountains are noted for their sandstone ledges and cliffs, large lakes, scenic vistas, and dense vegetation which is dominated by upland hardwoods such as oaks and hickories. In addition, a wide variety of wildlife inhabit the area including turkey, deer, bear, and peregrine falcons.

Also of note is the Cumberland Gap National Historical Park which lies at the southern end of the range. Discovered by Daniel Boone, the gap formed a gateway for this Nation's expansion westward.

I want to thank Chairman VOLKMER of the Subcommittee on Forests, Family Farms, and Energy for his help in moving this legislation to the floor and I urge my colleagues to support it.

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

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

Mr. Speaker, I rise to be recognized on H.R. 5119, a bill to authorize the construction of the Cumberland Mountain Trail and authorize the Forest Service to conduct two studies.

Mr. VENTO has already explained the details of this measure.

I note that the administration opposes this measure because some of the provisions are unnecessary and others address primarily non-Forest Service lands.

I would agree that the first section of the bill serves no useful purpose, in

that the Forest Service has already decided to construct this section of trail.

However, if those areas outside the forest which are proposed for study do have some merit, as was indicated by the Forest Service during their testimony, it would appear that the Forest Service should have the lead on undertaking any study.

Therefore, I do not intend to oppose this measure.

Mr. PERKINS. Mr. Speaker, before I discuss the substance of this bill, I would like to thank subcommittee Chairmen VENTO and VOLKMER, full committee Chairmen MILLER and DE LA GARZA, Mr. YOUNG of Alaska, Mr. MARLENEE, Mr. LAGOMARSINO, Mr. COLEMAN of Missouri, and Mr. MORRISON. They and their staffs have helped me and my staff a great deal in bringing this measure to the floor. I want them all to know that I sincerely appreciate both their friendship and their help in launching this project before I retire from the House. I will miss them next year.

Let me now briefly summarize what H.R. 5119 does. Section 1 covers a proposed Cumberland Mountain Trail. In 1990 the Clinch Ranger District of Jefferson National Forest issued a Design Narrative outlining a plan for a 26-mile trail to follow the Kentucky-Virginia border along the ridge line of Pine Mountain. This trail would provide stunning views of both States.

The bill would authorize the Forest Service to build this 26-mile trail and would direct it to study continuing the trail down to Cumberland Gap, for a total of 120 miles. This extension has been proposed in the past, and I have every reason to believe that it is feasible since rough trails now exist along much of the distance. The major issue is to determine precisely the best routes for the extension.

Section 2 would require the Forest Service to study the feasibility of creating a Cumberland National Recreation Area. This NRA would be located in or around Jefferson National Forest along the Kentucky-Virginia border. The bill requires the Forest Service to consult with all interested parties, specifically including Government agencies, local businesses, and environmental groups. As part of the study, the Forest Service would have to recommend the map which would: First, conserve, protect, restore and enhance the natural, recreational, and other resources of the area; second, best promote rural community economic development in the region, and third, minimize disruptions to current business activities and uses of private lands.

In writing this bill, I gave these three priorities equal weight to reassure local businesses and property owners. I want to create a win-win outcome for all involved by granting environmental protections to a special zone, providing new jobs, and protecting private property.

H.R. 5119 would benefit southeast Kentucky and southwest Virginia both environmentally and economically, so I come before you today in two different roles. First, I am here as a nature lover from eastern Kentucky. The Cumberland Mountains run along the border between Kentucky and Virginia. This beautiful region contains valuable scenic, natural, historic, and cultural resources which should be preserved for all Americans to enjoy.

The stretch of the Cumberland Mountains affected by the bill has played an important role in U.S. history and culture. For instance, Daniel Boone and many settlers behind him traveled into Kentucky through the Cumberland Gap, pushing the frontier further west in the process.

The natural structure of the area also makes it ideal for a wide variety of recreational activities, including hiking, camping, hunting, fishing, skiing, backpacking, horseback riding, swimming, rafting, boating, and environmental education. In the study area there are numerous large lakes near the mountains, creating a unique terrain which yields a distinct array of flora and fauna, including one threatened and four sensitive species. These features justify creating a national recreation area to meet the preservation needs of the region.

In my second role I am here as a Member of Congress, concerned about the economic health—or lack thereof—of southeastern Kentucky. Creating a Cumberland National Recreation Area would boost rural community economic development in southeast Kentucky and southwest Virginia. These rural, Appalachian areas have endured extreme economic depression for years due to the collapse of the coal industry. In the affected Kentucky counties the per capita income is below $10,000 while only 52 percent of the adult population are employed.

H.R. 5119 would foster tourism, which is a logical way to promote environmentally sound economic growth in the region. For decades the economy of the Cumberland Mountains has revolved around extracting their natural resources. Now, we have the chance to create jobs based on preserving this national treasure.

There are only three national recreation areas in the Eastern United States. Given the growing demand for outdoor recreation, the Cumberland NRA would enter an underserved market. The Mount Rogers NRA in Virginia draws 1,350,000 visitors a year. I think it is safe to assume that a Cumberland NRA would attract similar numbers of visitors to southeastern Kentucky and southwestern Virginia. Such tourism would create 2,000 badly needed jobs in the region.

The Subcommittee on National Parks and Public Lands heard testimony from Ben Ross, the executive director of the East Kentucky Corp., which was formed by the Kentucky General Assembly to create jobs in Appalachian Kentucky. In his remarks Mr. Ross observed that the economic impact of this proposed project can be easily calculated. He went on to say, "What is incalculable is the emotional health the money from this project brings to the many families in the region living at or below the poverty line or the personal esteem afforded by the jobs that this project brings to the breadwinners who may not have had meaningful employment in this decade." As you can see, the social and economic benefits of this legislation are quite clear.

Mr. Speaker, H.R. 5119 is a wonderful opportunity to enhance environmental preservation and economic growth at the same time. Too often, these goals seem to conflict; here they are in accord. As a result, H.R. 5119 has received the support of the Kentucky's Lieutenant Governor who is also the secretary for the Cabinet for Economic Development, the East Kentucky Corp., the local business community, and also the Kentucky Resources Council as well as other environmental and recreational groups.

I am glad the House has seized this opportunity, and I hope the other body will as well.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, the gentleman from Kentucky [Mr. PERKINS] has a strong statement on this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5119, as amended.

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

A motion to reconsider was laid on the table.

DESIGNATING A SEGMENT OF THE LOWER MERCED RIVER IN CALIFORNIA

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2431) to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER FOR INCLUSION IN THE WILD AND SCENIC RIVERS SYSTEM.

Section 3(a)(62) of the Wild and Scenic Rivers Act (16 U.S.C. 127(a)(62)) is hereby amended—

(1) by striking "The main stem" and inserting in lieu thereof, "(A) the main stem";

(2) by striking "paragraph" whenever it appears and inserting in lieu thereof "subparagraph"; and

(3) by adding the following new subparagraph at the end thereof:

"(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the normal maximum operating pool water surface level of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled 'Merced Wild and Scenic River', dated April, 1990. The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the

boundary of the Mountain King Mine to the normal maximum operating pool water surface level of Lake McClure. The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.

"(ii) To the extent permitted by, and in a manner consistent with section 7 of this Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in the Bureau of Land Management right-of-way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the 'Saxon Creek Project', to assure an adequate supply of water from the Merced River to Mariposa County.

"(C) With respect to the segments of the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b), the minerals to Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.".

SEC. 2. STUDY OF THE NORTH FORK OF THE MERCED RIVER.

Section 5(a) of the Wild and Scenic Rivers Act, as amended, (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"( ) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River, by the Secretary of Agriculture and the Secretary of the Interior.".

SEC. 3. NEW EXCHEQUER PROJECT.

The designation of the river segments referred to in section 1 of this Act as components of the Wild and Scenic Rivers System shall not affect the continued operation and maintenance of the New Exchequer Project (Project No. 2179) as licensed by the Federal Energy Regulatory Commission (including flood control operations) or the Commission's authority to relicense such project within the project boundaries set forth in the license on the date of enactment of this Act: Provided, That if the Commission relicenses such project, the normal maximum operating pool water surface level authorized in the project's license shall not exceed elevation 867.0 feet mean sea level.

House amendment to Senate amendment: In lieu of the matter inserted by the Senate amendment, insert the following:

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER FOR INCLUSION IN THE WILD AND SCENIC RIVERS SYSTEM.

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(1) by striking "The main stem" and inserting in lieu thereof, "(A) The main stem";

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(3) by adding the following new subparagraph at the end thereof:

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"(C) With respect to the segments of the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b), the minerals to Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.".

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Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

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

Mr. ALLARD. Mr. Speaker, reserving the right to object, I would ask the gentleman from Minnesota to explain the proposal here.

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

Mr. ALLARD. Under my reservation, I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I will explain what we are proposing to do.

Mr. Speaker, H.R. 2431, by the gentleman from California [Mr. CONDIT] is a bill to designate a segment of the Lower Merced River, in California, as a component of the National Wild and Scenic Rivers System. The House passed the bill last year, and earlier this year the Senate amended the bill and sent it back to the House.

Most of the changes made by the Senate are acceptable, but one part of their provisions, relating to the New Exchequer project, need some technical changes.

What we propose to do is to make those technical changes. These changes are acceptable to the sponsor of the bill, Mr. CONDIT, as well as, the Merced irrigation district which operates the New Exchequer project. I believe that these changes will also be acceptable to the Senate, and that they will be ready to give final approval and send the bill to the President for signature.

Mr. CONDIT. Mr. Speaker, I rise today in support of the passage of H.R. 2431, the Merced River wild and scenic bill. The changes that we have before us today are technical in nature and do not constitute any substantive changes in the purpose of this important piece of legislation. I would like to thank Chairman VENTO and Chairman MILLER for their assistance with this bill.

H.R. 2431 attempts to complete the action taken by the 100th Congress. At that time, 71 miles of the river were designated as wild and scenic and a study was authorized to be conducted on the 8 remaining miles. As a result, we have introduced H.R. 2431, which would designate 8 miles of the Merced River as wild and scenic.

These 8 miles were not initially included in the designation in order to allow Mariposa County to complete a proposal for a water system that would be compatible with the requirements of the Wild and Scenic Rivers Act. The county has designed a project that will be compatible, and the County Board of Supervisors unanimously supports my legislation. I would like to point out that we have very strong support from the Friends of the River, the American Rivers, the Wilderness Society, and the Department of the Interior's Bureau of Land Management.

I would also like to applaud the efforts of the California Senators CRANSTON and SEYMOUR

for their continued support and effort in seeing that this legislation becomes law before the end of the 102d Congress. I look forward to working with them expeditiously in the upcoming week.

The Merced River is very special to my constituents, as well as to the over 1 million annual Yosemite National Park visitors. I believe that the unique beauty of the Merced River makes it a prime choice for inclusion in the Wild and Scenic Rivers System. This legislation, in preserving one of the Central Valley's most precious resources, will ensure that this portion of the river is protected and preserved for our future generations. I hope that together we will be able to pass this legislation swiftly, and I urge Congress to support H.R. 2431.

Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the action just taken on H.R. 2431.

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

There was no objection.

WORLD WAR II 50TH ANNIVERSARY COMMEMORATIVE COINS ACT

Mr. LAROCCO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3195) to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II.

The Clerk read as follows:

S. 3195

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "World War II 50th Anniversary Commemorative Coins Act".

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) the period of December 7, 1991, through September 2, 1995, will mark the 50th anniversary of the involvement of the United States in World War II;

(2) over 16,000,000 people served in the Armed Forces of the United States during that conflict;

(3) over 400,000 American men and women gave their lives in defense of freedom around the world during World War II;

(4) World War II fundamentally reshaped the international geopolitical landscape, as well as the economic, political, and cultural institutions of our Nation;

(5) the War involved a clear choice between democracy and tyranny and involved our Nation as a whole in a worldwide battle against the forces of fascism and oppression;

(6) the June 6, 1944, invasion of northern France, when in one day 176,000 Allied military personnel were landed on the beaches of Normandy, was one of World War II's most celebrated achievements;

(7) the "D-Day" invasion was the largest seaborne invasion in history, and the ensuing 76-day Battle of Normandy was one of the largest land battles in history;

(8) the Battle of Normandy was a key to the Allied forces' eventual liberation of Europe; and

(9) numerous organizations and individuals across the United States have expressed interest in or are engaged in efforts to draw attention to the 50th anniversary of World War II.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the 50th anniversary of the involvement of the United States in World War II, the Battle of Normandy, and its other important battles should not go unrecognized at the national level;

(2) that the United States should recognize these anniversaries by minting and issuing coins to commemorate these anniversaries; and

(3) the minting of a United States coin to commemorate the Battle of Normandy and "D-Day" would be an appropriate concomitance to the commitment by the Republic of France that it will mint a French commemorative coin in recognition of the anniversary.

SEC. 3. WORLD WAR II COMMEMORATIVE COINS.

The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue coins in accordance with this Act to commemorate the 50th anniversary of the involvement of the United States in World War II.

SEC. 4. SPECIFICATIONS OF COINS.

(a) DENOMINATIONS.—The Secretary shall mint and issue the following coins:

(1) FIVE DOLLAR GOLD COINS.—Not more than 300,000 five dollar gold coins, each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) ONE DOLLAR SILVER COINS.—Not more than 1,000,000 one dollar silver coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 2,000,000 half dollar coins, each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 5. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 6. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins authorized under this Act shall, in accordance with subsection (b), be symbolic of the participation of the United States in World War II. In addition, the design of the gold coin authorized under section 4(a)(1) shall be emblematic of the Allied victory in World War II, and the silver coin authorized under section 4(a)(2) shall be emblematic of the Battle of Normandy.

(2) DESIGNATIONS AND INSCRIPTIONS.—Each coin authorized under this Act shall bear a designation of the value of the coin, an inscription of the years "1991-1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". In addition, the silver coin authorized under section 4(a)(2) may bear a designation of the date "June 6, 1944" and an inscription of the words "Battle of Normandy" or "D-Day Invasion".

(b) DESIGN COMPETITION.—The Secretary shall sponsor a nationwide open competition for the design of each coin authorized by this Act.

(c) SELECTION.—The design for each coin authorized by this Act shall be selected by the Secretary from the results of the design competition under subsection (b), after consultation with—

(1) representatives of veterans organizations of the United States whose membership includes veterans of World War II, including—

(A) the American Legion;

(B) the Veterans of Foreign Wars of the United States;

(C) AMVETS (American Veterans of World War II, Korea, and Vietnam); and

(D) the Disabled American Veterans; and

(2) in the case of the one dollar silver coin authorized under section 4(a)(2), the Battle of Normandy Foundation and individuals designated by the Foundation from among individuals who are particularly knowledgeable, by reason of their education, training, or experience, about the history of World War II.

SEC. 7. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality for the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1993.

(e) PROMOTION CONSULTATION FOR WORLD WAR II MEMORIAL.—The Secretary shall determine the role that the American Battle Monuments Commission (hereafter referred to as the "Commission") and any entity established by the Congress to assist the Commission in erecting a World War II memorial will have in the promotion, advertising, or marketing of coins authorized under this Act. This determination shall be made in consultation with the Commission and any other such entity. The Secretary may enter into a contract involving the promotion, advertising, or marketing of such coins with the Commission and such other entity if the Secretary determines that such a contract would be beneficial in the sale of the coins.

(f) PROMOTION CONSULTATION FOR NORMANDY MEMORIAL.—In consultation with the

Battle of Normandy Foundation, the Secretary shall determine the role such entity shall have in the promotion, advertising, or marketing of the coins authorized under this Act. The Secretary shall enter into a contract involving the promotion, advertising, or marketing of such coins with the Foundation if the Secretary determines that such a contract would be beneficial in the sale of the coins.

SEC. 8. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell coins minted under this Act at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (d) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $8 per coin for the one dollar coins, and $2 per coin for the half dollar coins.

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Government.

SEC. 10. USE OF SURCHARGES.

(a) SPLIT OF SURCHARGES BETWEEN BATTLE OF NORMANDY MEMORIAL AND WORLD WAR II MEMORIAL.—Surcharges received from the sale of coins minted under this Act shall be distributed by the Secretary as follows:

(1) BATTLE OF NORMANDY FOUNDATION.—The first $3,000,000 received from the sale of coins shall be transferred to the Battle of Normandy Foundation and used to create, to endow, and to dedicate, on the 50th Anniversary of D-Day, a United States D-Day and Battle of Normandy Memorial in Normandy, France, adjacent to the largest World War II Museum in the world in Caen, France, and to encourage and support visits to the memorial by United States citizens, and especially students.

(2) AMERICAN BATTLE MONUMENTS COMMISSION.—The first $7,000,000 received from the sale of coins after the $3,000,000 referred to in paragraph (1) shall be deposited by the Secretary, subject to subsection (b)(2), in the fund established in the Treasury which is available to the American Battle Monuments Commission for the expenses incurred in establishing a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in World War II and to commemorate the participation of the United States in that war.

(3) DISTRIBUTION OF EXCESS.—Of the amounts received from the sale of coins in excess of $10,000,000—

(A) 30 percent shall be transferred to the Battle of Normandy Foundation and used in the manner provided in paragraph (1); and

(B) 70 percent shall be deposited by the Secretary, subject to subsection (b)(2), in the fund described in paragraph (2).

(b) USE OF FUNDS IF NOT USED FOR MEMORIAL.—

(1) BATTLE OF NORMANDY MEMORIAL.—Of the amounts received by the Battle of Normandy Foundation under this section, any amount in excess of the amount spent by the Foundation for the uses described in subsection (a)(1) shall be transferred to the Secretary for deposit in the account provided for in section 8(b)(1) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" and approved November 14, 1986, in the same manner as provided by law for the World War II memorial described in subsection (a)(2).

(2) WORLD WAR II MEMORIAL.—If the World War II memorial described in subsection (a)(2) is not authorized by Congress by December 31, 1995, the amounts described in paragraphs (2) and (3)(B) of subsection (a) shall be deposited by the Secretary in the account described in paragraph (1) of this subsection.

(c) AUDITS.—The Comptroller General of the United States shall conduct an annual audit of any books, records, documents, and other data—

(1) belonging to the Battle of Normandy Foundation, the American Battle Monuments Commission, and any agency or organization which receives any amount from the fund described in subsection (a); and

(2) relating to the expenditure of any amount received under subsection (a) or from the fund,

until all amounts received by the foundation, commission, agency, or organization under subsection (a) or from the fund have been spent and the expenditure of such amounts has been audited.

SEC. 11. REPORT TO CONGRESS.

Not later than March 31, 1994, the Secretary shall submit to the Congress a report regarding the activities carried out under this Act.

SEC. 12. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act relating to the minting or selling of the coins authorized by this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 13. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 10 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho [Mr. LAROCCO] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of the World War II 50th Anniversary Commemorative Coin Act.

The House passed the World War II Commemorative Coin Act, H.R. 1623, on June 23, 1992, by unanimous consent.

Mr. Speaker, Congresswoman MARCY KAPTUR and Congressman SAM GIBBONS have worked diligently to see that our Nation's World War II veterans are honored.

The Senate passed almost identical legislation on September 18 by voice vote.

The differences between the House and Senate bill are only technical in nature.

I ask my colleagues to join me in support of this bill to honor our Nation's World's War II veterans, pass the Senate bill, and send it to the President for his signature.

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

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

Mr. Speaker, as the gentleman from Idaho has outlined, this legislation is the Senate version of a bill that was approved by the House on June 30. The difference between the House and Senate bills is purely technical. S. 3195 authorizes the minting of coins to commemorate the 50th anniversary of the Battle of Normandy, better known as D-day. Proceeds from the sale of these coins will be used to construct memorials in Normandy, France, as well as here in Washington, DC.

In short, these memorials will serve to remind the current generation and future generations of the sacrifices made by millions of men in the cause of freedom. Quite truly these men and women changed the course of history, and we honor them.

Mr. GONZALEZ. Mr. Speaker, I want to commend Congressman TORRES, chairman of the Subcommittee on Coinage, for bringing this bill before the House today, and I congratulate Congresswoman KAPTUR for sponsoring the legislation.

December 7, 1991, marked the 50th anniversary of the beginning of World War II—one of the biggest military operations in U.S. history. More than 16,000,000 people served during the 4-year war, and more than 400,000 died in the conflict.

H.R. 1623 would create coins commemorating D-day, the Battle of Normandy, and other important events of World War II. The proceeds from the sale of these coins would go to recognize the Americans who served in the war by funding two memorials, one in Normandy, France, and one in our Nation's Capital.

The veterans and families of those who served in World War II deserve these testaments to their sacrifices. I urge my colleagues to support this bill.

Mr. LEACH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAROCCO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Idaho [Mr. LAROCCO] that the House suspend the rules and pass the Senate bill, S. 3195.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

TED WEISS CHILD SUPPORT ENFORCEMENT ACT OF 1992

Mr. LAROCCO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6022) to amend the Fair Credit Reporting Act to require the inclusion in consumer reports of information provided to consumer reporting agencies regarding the failure of a consumer to pay overdue child support, as amended.

The Clerk read as follows:

H.R. 6022

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ted Weiss Child Support Enforcement Act of 1992".

SEC. 2. INCLUSION IN CONSUMER REPORTS OF INFORMATION REGARDING FAILURES OF CONSUMERS TO PAY OVERDUE CHILD SUPPORT.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by redesignating section 622 as section 623 and by inserting after section 621 the following new section:

"§ 622. Information on overdue child support obligations

"Notwithstanding any other provision of this title, a consumer reporting agency shall include in any consumer report furnished by the agency in accordance with section 604, any information on the failure of the consumer to pay overdue support which—

"(1) is provided—

"(A) to the consumer reporting agency by a State or local child support enforcement agency; or

"(B) to the consumer reporting agency and verified by any local, State, or Federal government agency; and

"(2) antedates the report by 7 years or less.".

(b) DEFINITIONS.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

"(j) DEFINITIONS RELATING TO CHILD SUPPORT OBLIGATIONS.—

"(1) OVERDUE SUPPORT.—The term "overdue support' has the meaning given to such term in section 466(e) of the Social Security Act.

"(2) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—The term 'Sate or local child support enforcement agency' means a State or local agency which administers a State or local program for establishing and enforcing child support obligations.".

(c) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended by redesignating the item relating to section 622 as section 623 and by inserting after the item relating to section 621 the following new item:

"622. Information on overdue child support obligations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho [Mr. LAROCCO] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Idaho [Mr. LAROCCO].

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

Mr. Speaker, I rise in support of H.R. 6022, the Ted Weiss Child Support Enforcement Act. I know his wife and son are proud of his work on this legislation. When school started this month, a lot of children went to class without new clothes and new notebooks. Some of those children have been pushed so far into poverty that the taxpayers are now helping support them through AFDC. Others just go without.

This is because—for more than 12 million children in this country—court-ordered child support is a promise not kept.

Beginning in March of this year, the late Congressman from New York and I worked on legislation together to try to help these children. I am pleased that the House will have an opportunity today to complete the work he began.

The bill before us does just one thing: It says if a State child support enforcement agency reports overdue support of $1,000 or more, credit bureaus shall include the information in credit reports.

We hope that this legislation makes parents think again before they walk away from their child support obligations. They will not be able to skip out on their children and have a clean credit report.

We hope that this legislation will encourage more States to become "providers of credit history information" and to report this information to credit bureaus. At present, more than 20 States do so and several major credit bureaus voluntarily include this information in credit reports. Over 1½ million records of unpaid child support have already been added to credit reports. This legislation should help to increase that number.

In passing this bill we hope, also, to very strongly encourage State child support enforcement agencies to work closely with credit bureaus to devise the best possible automated format for providing this information so that it can be promptly and properly recorded.

I urge all Members to support H.R. 6022.

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

□ 1930

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

I would only take a minute first to thank the gentleman from Idaho for his leadership on this bill, but also to point out, as he did, the enormous contribution of the gentleman from New York, Mr. Weiss.

This is a very symbolic bill. It is not the most important one that Congress will deal with, but for a small category of people it says a great deal.

I think this does reflect wonderously on a very decent man who had a very large impact on the body, the gentleman from New York, Mr. Weiss.

Mr. Speaker, the minority strongly suggests this be passed.

Mr. LAROCCO. Mr. Speaker, I thank the gentleman from Iowa for those kind remarks about our colleague. I have only been on the Banking Committee for a little over 1½ years, but I had the opportunity to work with the gentleman from New York, Mr. Weiss on this legislation and other things, and I had the greatest respect for him. I appreciate the concurrence of the minority in the passage of this bill.

Mr. Speaker, I would like to engage in a very brief colloquy with the gentleman from Iowa to get one important point on the record.

It is my intention that H.R. 6022 remain a clean bill. Is it the understanding of the gentleman from Iowa that this bill is intended to remain unamended in the other body?

Mr. LEACH of Iowa. Mr. Speaker, if the gentleman will yield, it is my understanding that an agreement has been made on all sides that this will not be used as a vehicle for any other kind of legislation that might be somewhere in the Halls of Congress on that side or this side and that this would be a stand-alone piece of legislation, not use for any other purpose.

Mr. LAROCCO. Mr. Speaker, I thank the gentleman.

It is not intended to become a vehicle for any other Fair Credit Reporting Act provisions or provisions of other legislation. I understand that both Chairman GONZALEZ and the ranking member, the gentleman from Ohio [Mr. WYLIE] expect this bill to remain unencumbered.

Mr. GONZALEZ. Mr. Speaker, I rise today in strong support of H.R. 6022 and ask my colleagues to join me.

The bill Mr. LAROCCO has brought to the floor today was originally conceived by our late colleague Ted Weiss. Mr. Weiss left many legacies to this institution and the American people, and this characterizes the kind of decent and thoughtful leadership his life epitomized. I commend Mr. LAROCCO for this dedicated and determined efforts to enact this important bill.

With almost $30 billion in court ordered child support payments due annually to over 5 million mothers in this country, child support is clearly not just an incidental component of our economy—and there is no reason why delinquent child support payments should receive different treatment than any other financial obligation appearing on a credit report.

Deadbeat parents need to know that if they miss a child support payment, it will catch up to them just as if they had missed a payment on their credit card, to the phone company or on the mortgage on their home. But the fact is that missed child support payments currently do not receive the same attention that credit reporting bureaus give to other debts, and it is high time that they did.

The country's legal system is tremendously overburdened and among the casualties of the legal backlog have been the 17 million children that live off the money provided by a parent not in residence. Our legal system simply does not have the resources to enforce every case. But requiring child support delinquencies to appear on credit reports along with other bad debts, as this bill does, will be more effective and bring better results than any court ordered solution could hope to achieve.

If deadbeat parents realize that missing a child support payment is going to cause their quality of life to suffer just as it does for the children not receiving the support they are due, they might think twice before spending that money elsewhere and not be so quick to shirk their responsibilities as a parent.

This is a good provision and I urge my colleagues to support it.

Mr. TORRES. Mr. Speaker is rise in support of the Ted Weiss Child Support Enforcement Act of 1992.

I am delighted that the House is considering this important legislation that was originally sponsored by our late colleague Ted Weiss. With the help of LARRY LAROCCO, Ted Weiss was instrumental in moving the issue of child support enforcement to the forefront of the public debate. But then, Ted could always be counted on to be at the forefront of any effort that sought to give a voice to those most in need of assistance. Whether it was the homeless, the hungry, the poor or the persecuted, Ted Weiss was always front and center, fighting for their rights.

The bill we are considering today requires consumer reporting agencies to report delinquent child support payments in excess of $1,000 for a period of 7 years. Because of the preemption clause of the Fair Credit Reporting Act, a State would be prohibited from passing a law that shortens this reporting period.

The bill gives State child enforcement authorities a simple but effective tool to help alleviate a growing problem that is driving millions of children into abject poverty. This bill will not force all the deadbeat dads to support their children. But it will give the 16 million children that are not receiving support a fighting chance.

I urge my colleagues to vote for this important legislation.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAROCCO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BILBRAY). The question is on the motion offered by the gentleman from Idaho [Mr. LAROCCO] that the House suspend the rules and pass the bill, H.R. 6022, as amended.

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

A motion to reconsider was laid on the table.

ANNUAL REPORT OF NATIONAL INSTITUTE OF BUILDING SCIENCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs.

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2(j)), I transmit herewith the 15th annual report of the National Institute of Building Sciences for fiscal year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *September 29, 1992.*

ANNUAL REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Small Business:

To the Congress of the United States:

It is my pleasure to submit my third annual report on the state of small business. America's small business owners are individuals with countless new ideas, employers and workers who produce a vast array of goods and services, taxpayers who pay many of the bills, and economic pioneers who help decide the future direction of our economy. In their endless variety, small firms help create flexible, diverse, and lively marketplace.

For generations, entrepreneurial business owners have been in the forefront of the dynamic economic changes that continually revitalize our democracy. In the early days of our Republic, small business innovators led the way in developing more productive farming technologies. Greater agricultural productivity eventually freed other entrepreneurs to develop and commercialize new manufacturing processes. These processes and manufactured products set a new standard for America—and for the world. But America's small business innovators did not stop there. They started another revolution by anticipating and responding quickly to the demands that grew out of the new, higher standard of living—demands for services and sophisticated new information technologies.

Small businesses have made important contributions to the economy, not only by introducing new products and processes and creating jobs, but also by making the economy more adaptive and flexible—by retaining workers longer recessions and hiring workers earlier as expansions begin.

There is no doubt that 1991 was not an easy year for the American economy or for small business. The recession that began in the third quarter of 1990 carried over into 1991. Business formation rates were down, and business closings were up. The flow of financing slowed as banks and businesses grew more cautious about business expansions.

Yet in this recession, as in other economic downturns, small businesses continued to function as a source of jobs, creating many of the new jobs in the economy. Rather than lay off workers, many small firms tightened their belts in other areas. And they continued to innovate, introduce new products, and contribute to their communities.

Our economy has begun to grow again. Still, small firms face difficult challenges in the months and years ahead. The truth is that health care costs are too high and the unmet need for health coverage is great in small businesses. And of all employers, small businesses are least able to afford the expensive mandates that have been advocated by some. The proposal I presented to the Congress would not resort to mandates, but would build on the strengths of our private health care system to make health insurance affordable for America's workers and their families.

Adjustments occurring in our financial institutions have made it difficult for many worthy small businesses to find the capital they need to start up or expand. Therefore, my Administration is taking steps to encourage investment in business ventures in a number of ways. I have proposed that the Congress cut the capital gains tax so that investors will have an incentive to buy into new ventures. Another proposal I have made is to create an investment tax allowance that would assist in starting new firms.

And we can encourage some new investment by adapting programs that are already underway. For example, the Small Business Administration is working with banks to implement innovative loan programs that are channeling funds to smaller firms in some

of the most economically depressed areas.

Another obstacle that can stand in the way of small firm growth is too much regulation. My Administration this year instituted a moratorium on new Federal regulations to give Federal agencies a chance to review and revise their rules. And we are looking at ways to improve our regulatory process over the long term so that regulations will accomplish their original purpose without unduly hindering economic growth.

We also need to encourage innovation—such as that exhibited by thousands of small high technology firms—by making the research and experimentation tax credit permanent. My Administration is committed to exploring the promise of new technologies.

This report documents the increasing, healthy diversity of our small business community, as minority- and women-owned businesses enter the marketplace in record numbers. I want to keep encouraging that diversity through our Federal procurement programs.

I also want to see more of the Nation's economically depressed communities reap the benefits of business growth. To that end, I have asked the Congress to pass my enterprise zone legislation, which will provide incentives to businesses that start up in specially designated areas, particularly in inner cities.

Looking to the future, it is clear that we need to improve our educational system so that America's workers, particularly in small firms, will be in a better position to compete in a more and more sophisticated global marketplace. My America 2000 education strategy is designed to give parents, teachers, and communities more freedom and flexibility in designing education programs to meet their needs—and to make America the world's leader in education.

Many of these proposals for economic recovery and growth are being enacted now; others will require action by the Congress. I am committed to working with the Members of Congress to develop and enact a broad economic plan we can all live with. These combined actions will help small business to move ahead to create the economic revolutions that will lead us into the 21st century.

GEORGE BUSH.

THE WHITE HOUSE, *September 29, 1992.*

DELAY CONSIDERATION OF DANGEROUS ARMS SALES

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

Mr. EDWARDS of California. Mr. Speaker, I commend to my colleagues the editorial in this morning's New York Times, entitled "Mr. Bush Sells Out Arms Control." The editorial calls for Congress to delay consideration of the proposed sales of F-15 fighter-bombers to Saudi Arabia and F-16 fighters to Taiwan. As the editorial points out, there is no strategic rationale for these dangerously destabilizing sales.

Even from a purely economic standpoint, these sales are penny-wise and pound-foolish. They will save some short-term jobs, but those gains will be more than offset by the damage regional arms races do to our economy. The U.S. taxpayer will be called upon to provide more military aid to U.S. allies trying to match their neighbors' new capabilities. In addition, the sales will continue the terrible drain on the international economy caused by developing countries' $200 billion in annual military spending. Those funds would generate far more growth and far more American export jobs if they were redirected to the civilian economies of these countries.

In notifying Congress of these sales so late in the session, the administration has violated longstanding congressional rules requiring 50 days of session before a sale can take effect. The notifications should simply be returned to the administration so that they can be resubmitted in the normal fashion next year. Barring that step, though, they should be rejected. I applaud my colleagues Representative HOWARD BERMAN and Representative MEL LEVINE for introducing a resolution of disapproval for the F-15 sale, and I urge all my colleagues to sign on as cosponsors.

[From the New York Times, September 29, 1992]

MR. BUSH SELLS OUT ARMS CONTROL

One happy consequence of the end of the cold war is that defense budgets around the world are shrinking. One unhappy consequence is that nations are scrambling to peddle arms abroad in order to keep their arms makers in business.

The U.S. is not alone in this ruinous practice. Russia, China and France, among others, are eager sellers. But America's arms sales dwarf anyone else's. So, too, does its capacity to insure a more stable world by restraining sales.

It has failed, however, to exercise such leadership. The most recent example was President Bush's pledge to sell F-15 fighter planes to Saudi Arabia and F-16's to Taiwan. These potentially destabilizing moves mock Mr. Bush's professed desire to curb proliferation—all in the name of winning a few votes in Missouri and Texas.

Until recently, Mr. Bush had been trying to talk the four other permanent members of the United Nations Security Council into providing advance notice of their arms sales to the Middle East. That would have provided time to talk them out of destabilizing sales.

He has now made that policy unworkable. How can he expect to dissuade Moscow from selling submarines to Iran? Or tell China not to market missiles in the Middle East?

It's up to Congress to halt this mindless trafficking in arms. It can hold up the F-15 and F-16 sales until January, when election pressures have eased. And it can try to induce other countries to curb their sales by imposing dollar limits on next year's U.S. sales.

By deciding to sell F-15's to the Saudis without a serious attempt to negotiate multilateral restraints, Mr. Bush threw open the doors of the Middle East arms bazaar. The deal would raise total U.S. sales to the region since the Persian Gulf war to $19.3 billion, far greater than the combined sales of the rest of the permanent Security Council members. Mr. Bush bought Israel's acquiescence by giving it surplus American arms.

The agreement on the F-16's, meanwhile, betrays a pledge the U.S. made in 1982 not to increase the quantity or quality of arms it sold to Taiwan. It also gives China a reason to boycott the arms control talks among the permanent five in the Security Council.

Had Mr. Bush sent a message that the F-16 sale was intended to deter Beijing's rising assertiveness in the region, the sale might at least have reassured China's neighbors. Instead Mr. Bush let his medium be his message. By announcing the sale in Fort Worth, he made it clear to everyone that he was motivated by jobs, not deterrence. To China's nervous neighbors, Mr. Bush seemed to be baiting Beijing for purely political purposes. And that did not please them at all.

At the same time, the Administration had the gall to denounce France's proposed sale of Mirage fighters to Taiwan—persuading Paris that Washington was out to monopolize the market. As a result, it will now be easier to get a Parisian maitre d' to take back an opened bottle of Bordeaux than to get France to restrain itself in the international arms bazaar.

A moratorium on all sales to the Middle East may be asking too much. But Congress could impose a 50 percent cut in the dollar volume of deliveries for the coming year and try to induce other sellers to follow suit. A cogent case for such ceilings has been made in a report just issued by the Congressional Budget Office.

By taking its advice, Congress could stop Mr. Bush's costly and dangerous abandonment of his earlier pledge to curb proliferation.

GAO REPORT ON U.S. STRATEGIC NUCLEAR TRIAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FASCELL] is recognized for 5 minutes

Mr. FASCELL. Mr. Speaker, a new report by the General Accounting Office [GAO] on the U.S. strategic nuclear triad challenges many of our old cold war assumptions about the Soviet threat and the corresponding U.S. strategic systems. This report will open a new debate on the rationale and cost-effectiveness of many elements of the strategic nuclear triad in the post-cold-war world. Improvements suggested by the report could make the United States a safer place and provide our economy defense savings in the $100 billion range.

Assistant Comptroller General, Eleanor Chelimsky, has provided the Committee on Foreign Affairs in response to my request as chairman an unclassified summary of the findings and recommendations of the classified, eight volume, 2-year evaluation report on the

U.S. strategic nuclear triad. The results of this study are startling. Old cold war assumptions about Soviet military capabilities are challenged by the findings of this study. The findings and recommendations also challenge assumptions we have been making about U.S. nuclear capabilities and throw into question long-range strategic planning. The conclusions of this report will surely open a new, hot debate about whether or not we need all three legs—air, land, sea—of the strategic nuclear deterrent.

These findings and recommendations deliver a clear message to me that Congress and the public need to begin a thorough and substantive debate on the advisability and affordability of continuing to modernize strategic nuclear forces in all three legs of the triad.

For example, the GAO report's extensive research and evaluation of our various strategic systems and the Soviet threat that they were designed to address reveal that many old cold war assumptions were wrong. The effectiveness and numbers regarding Soviet air defenses were overrated. Therefore, it must be asked whether there ever was a window of vulnerability or a Soviet crippling first-strike capability.

Assumptions about our own strategic nuclear systems in the triad are also challenged head-on by the report. The sea leg of the triad gets top grades on cost-effectiveness, uninterrupted communications, and invulnerability. These high rankings for the sea leg prompt questions as to why we need a land leg if our sea leg is so invulnerable, accurate, rapid, and reliable.

The GAO report's through evaluation of the cost-effectiveness of various strategic nuclear systems reveals some surprising data. The report concludes that there is no need for any B–2 planes to be in a strategic role. And, furthermore, the report points out that the B–2 will cost about $2 billion per plane or $40 billion for the 20 B–2's now planned.

The findings and recommendations contained in this unclassified summary of the GAO report challenge the conventional wisdom concerning the former Soviet nuclear threat and our own strategic nuclear capabilities. The report was previously described in my CONGRESSIONAL RECORD insert of July 21, 1992 (E2179). The September 28, 1992 unclassified GAO findings and recommendations should open a new debate on U.S. strategic nuclear systems, their cost and their usefulness in the post-cold-war world. The summary follows below:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, September 28, 1992.

Hon. DANTE FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Pursuant to your request, I am enclosing a statement that summarizes—to the extent possible in unclassified form—GAO's 2-year evaluation of the U.S. strategic triad. As you know, you requested the initiation of this comprehensive evaluation by GAO's Program Evaluation and Methodology Division, and we presented our findings and conclusions in a classified briefing to you and other Members of the Committee on May 28. The entire text of our eight classified studies is in the final stages of processing and will be sent to you in the next few days. The text of the enclosed statement has been reviewed—and cleared as unclassified—by the Department of Defense.

We believe this study can assist the Congress during its review of the arms control agreements recently agreed to by President Bush and the various representatives of the former Soviet Union. We also believe it will assist your consideration of the President's revised proposals for the modernization of the U.S. strategic triad. Should you or Members of your Committee have any questions, please call me on 275–1854, or Mr. Kwai-Cheung Chan, Director of Program Evaluation for Physical System Areas, on 275–3092

It has been a privilege to work with you on this important study. With kind regards and best wishes for your retirement,

Sincerely yours,

ELEANOR CHELIMSKY,
Assistant Comptroller General.

UNCLASSIFIED SUMMARY STATEMENT ON THE GAO TRIAD PROJECT

In April 1990, the House Foreign Affairs Committee requested that GAO assess the major proposed strategic modernization programs of the Carter, Reagan, and Bush administrations. In particular, we were asked to evaluate the strengths and weaknesses of these programs, and determine which upgrades appear to be the most cost-effective. It was immediately clear, then, that the study we were about to conduct would need to have a broad scope, emphasizing the comparison of strategic weapon systems across all three legs, taking into account both the threat they were addressing and the arms control agreements that would necessarily constrain them.

When we began our study in the spring of 1990, the Soviet Union was still the chief threat to our security, and the START Treaty was still being negotiated. But even though the past two years have brought enormous changes, the congressional task is still what it was when we began our work—to decide on the form and content of the future U.S. strategic force structure—and we believe our study retains its usefulness to the Congress for making those decisions. This is because it is the first study in at least three decades that both sets up a comprehensive framework for comparing numerous dissimilar strategic systems on multiple measures and that uses test and performance data to compare the systems in question.

Moreover, we did not simply use the performance data cited by DOD for these systems, but instead validated those data through extensive research, analysis and questioning about the underlying validity of the data, including the quality and quantity of the testing of each system. For systems where we found that the claimed performance could not be sustained by such analysis, we have made the uncertainties explicit.

Our work included a comparison of the estimated 30-year lifecycle costs of strategic weapon systems (or major upgrades to existing ones) against seven different measures of effectiveness: (1) Survivability (against both offensive and defensive threats, for both platforms and weapons—for example, submarines and their ballistic missiles; bombers and their missiles); (2) weapon system accuracy; (3) warhead yield and reliability; (4) weapon system reliability; (5) flexibility across a number of dimensions, including impact on arms control; (6) communications; and (7) responsiveness.

We examined the major systems and proposed upgrades of all three nuclear legs, including, for the air leg: The B–2, B–1B, B–52G and B–52H bombers; the ALCM, ACM, SRAM A, and SRAM II missiles; for the land leg: The Peacekeeper, Peacekeeper Rail Garrison, SICBM, Minuteman II and Minuteman III ICBMs; and for the sea leg: The C–4 and D–5 SLBMs on *Lafayette* and *Ohio*-class SSBNs. We evaluated the upgrades from an arms control perspective and we looked at all systems under a full range of threat scenarios, moving from total surprise attack to strategic warning.

The usefulness of this approach is that it permits: (1) The assessment of different levels of weapon system delivery platforms and warheads based on arms control, threat, cost and performance considerations, and (2) the determination of what number and structure of strategic forces would likely be the most effective.

GAO FINDINGS

A general conclusion arising from the numerous comparisons we made in our study is that there exist systematic disparities between the estimates or claims that have been made about the triad systems and what the data actually show. We found this to be the case whether the issue was the likely cost and performance of the upgrades, the actual performance of current systems, or the likely offensive or defensive threats to these systems from the former Soviet Union. (Note that in every case, the likely threat presented by the Commonwealth of Independent Republics today is substantially less than that of the now defunct Soviet Union). These disparities are summarized in Table 1 below, and in three other tables included at the end of this statement.

TABLE 1.—GAO'S FINDINGS ON SIGNIFICANT KNOWLEDGE LIMITATIONS VIS-A-VIS FOUR DIMENSIONS OF STRATEGIC WEAPONS SYSTEM ASSESSMENT

	Air			Land		Sea—
	B–2	B–1B	B–52	Peace-keeper	MM III	D–5/ Ohio
Threat	X[1]	X[1]	X[1]	X[1]	X[1]	X[1]
Performance	X[1]	X[1]	X[2]	X[1]	.....	.....
Testing	X[3,4]	X[3]	.....	X[3,4]	X[4]	.....
Cost	X[5]	.....	.....	.....	.....	.....

[1] Threat or performance has been overestimated on at least one significant dimension.
[2] Threat of performance has been underestimated on at least one significant dimension.
[3] Operational testing has experienced a significant qualitative problem or limitation.
[4] Operational testing has experienced a significant quantitative problem or limitation.
[5] GAO found the cost to be significantly higher than alternatives available in the same leg and/or in other legs of the triad.

Comparing across the triad legs, for example, a first finding from our study is that, on balance, the sea leg emerges as the most cost-effective, taking into account all the measures of effectiveness cited above. Test and operational patrol data show that the speed and reliability of day-to-day communications to submerged, deployed SSBN's were far better than widely believed, and about the equal of speed and reliability of communications to ICBM silos. Contrary to conventional wisdom, SSBN's are in essentially constant communication with national command authorities and, depending on the scenario, SLBM's from SSBN's would be almost as prompt as ICBM's in hitting enemy targets.

Other test data show that the accuracy of the Navy's D–5 SLBM is about equal to that of the most lethal ICBM (the Peacekeeper): its reliability is about equal, and its warhead has a 50 percent higher yield than the Peacekeeper's. In short, we estimate that the D–5 has a hard target kill capability about the equal of the Peacekeeper.

Further, unlike easily located silos, operational test results show that submerged

SSBNs are even less detectable than generally understood, and that there are no current or long-term technologies that would change this.

A second finding concerns the cost side of the sea leg's cost-effectiveness. Measured in terms of lifecycle costs per arriving warhead, the B-2 would cost 2.5 to 5 times more than the D-5, under attack scenario, depending on the number of warheads on the D-5. Moreover, these estimates assume that the B-2 will be as effective as planned by DOD and that costs will not grow, compared to considerably more reliable and complete cost, test and operational performance data on the D-5/Ohio system. Compared to an upgraded/de-Mirved Minuteman III system—now being proposed by the Air Force—the lifecycle cost per warhead for the D-5/Ohio system is almost identical, but with the significant advantage of being based on submerge, essentially invulnerable submarines.

A third finding is that the former Soviet air defense threat—a fundamental justification offered for acquiring the B-2 bomber—had been heavily overestimated. Evaluation of the data showed that Soviet air defenses were considerably lower than the number projected earlier, and that DOD studies had also greatly overestimated the effectiveness of these air defense systems. Moreover, the disintegration of the Soviet Union and economic conditions within the commonwealth republics strongly suggest that current air defenses are more likely to degrade than to improve. In other words, the air defense threat that the B-2 was created to address was never in fact deployed.

A fourth finding speaks to the cost of the B-2: Each B-2 for a 20-aircraft fleet will cost over $2 billion in development and procurement—and there will be additional operating costs—when the program is complete. Yet the five additional B-2s requested by the President would increase total air leg strategic warheads by only 2.3 percent above current numbers.

A fifth finding deals with uncertainties in the B-2 performance. According to the air force, flight tests involving the all-important radar detectability dimension indicated that the B-2 did not perform as predicted on at least one radar frequency. The Air Force has declared solutions to be in hand. However, the B-2 flight test program remains in its very early stages, and the possibility of additional problems being uncovered remains.

A sixth finding concerns the continued viability of the B-52. We believe that both the B-52Gs and H's will remain usable aircraft for years to come. There are two reasons for this: First, Air Force flight hour data show that, as of 1990, the airframes and other key structural components of both models had only reached about half their life expectancies. Second, comparisons of data on multiple measures of effectiveness show that the B-52 compares favorably to the newer B-1B, which has shown deficiencies or uncertainties on a number of important performance dimensions. Both models of the B-52 have continuing capability, the B-52G as a cruise missile carrier and the B-52H as a strategic penetrating bomber.

A seventh finding involves the predicted benefits of ACM versus ALCM. Here we found that the range requirement for ACM offers only a small improvement over the older ALCM and that the accuracy improvement offered does not appear to have real operational significance. Further, because of important limitations in the flight tests conducted for both cruise missile systems, the parameters of their performance in operational conditions is incompletely explored.

An eighth finding deals with the vulnerability of our silo-based ICBMs, a presumption we found questionable on several counts: First, it was based on assuming only the highest estimates for such key Soviet missile performance dimensions as accuracy, yield, and reliability, while at the same time discounting very substantial uncertainties about performance that could not have been resolved short of nuclear conflict. Second, it did not recognize the possibility that the Soviets could be deterred from an all-out attack on the ICBM silos by their inability to target submerged U.S. SSBNs or on-alert bombers and their thousands of warheads that could be expected to retaliate. And third, it ignored the robust capabilities of U.S. early warning systems to detect a Soviet ICBM attack, thereby allowing a reasonably rapid response.

A ninth finding relates to uncertainty with regard to ICBM performance. Peacekeeper accuracy estimates are based on a very limited number of test shots, some of which used operationally unrepresentative software or hardware. The original operational test program of 8 launches per year could have reduced these uncertainties, but instead, as an economy measure, SAC reduced peacekeeper tests to just 3 per year. Similarly, a cut in the Minuteman III test rate from 7 to 4 per year will increase uncertainty in accuracy and reliability estimates for the Minuteman IIIs.

ARMS CONTROL AND FUTURE U.S. STRATEGIC CAPABILITIES

As for future U.S. strategic capabilities, the very large reductions in strategic forces announced by presidents Bush and Yeltsin in June show that the President has concluded that the United States can afford to substantially reduce both its hard target kill capabilities, and its total number of strategic warheads. Under that agreement—not yet considered by the Senate—all mirved (multiwarhead) ICBMS of both nations will be eliminated, including all peacekeepers and SS-18s and SS-24s. Further, the agreement cancels the START Bomber counting rules, which permitted numerous weapons to be carried on a bomber but only to count as one, and cap sea-leg warheads at 1,750, or about half the potential capability of the all-Ohio/D-5 force. If implemented, the Bush-Yeltsin agreement would constitute large numerical reductions in nuclear weapons in existing force levels and important qualitative reductions in offensive capabilities.

Before turning to our five recommendations, it should be noted that the findings summarized above are only a sample of what is in our 8 reports—in particular, there are additional findings on C^3I, strategic relocatable targets and the SRAM a missile.

GAO RECOMMENDATIONS

GAO's recommendations concern the B-2, the B-1B, the Minuteman III force, and the ACM and D-5 missiles. Some of these involve the maintenance of testing to insure adequate assessments of weapon system effectiveness and reliability. None of the recommendations would conflict with current proposals for a nuclear warhead test ban.

On the B-2, with respect to the determination of whether five more B-2s should be procured, we caution that we find no strategic grounds to acquire them. They are extremely costly; we found no need for any B-2s in a strategic role; and their capability to perform their intended mission will remain uncertain for some time yet to come.

There is a need for additional operational testing of the B-1B to verify that scheduled improvement in reliability and electronic countermeasures are achieved, and to remove remaining uncertainties concerning range performance.

On Minuteman III, we question the advisability of funding either de-Mirving or extensive major lifeservice upgrades for this force because the cost-effectiveness of such an effort is not obvious. There are three reasons for this: The estimated $16 billion price tag of maintaining it through the year 2020; the fact of a reduced-threat environment, now and in the foreseeable future; and the likelihood that either de-Mirving and/or other substantive modifications would require robust flight test programs that would quickly use up limited test assets.

Rigorous D-5 SLBM flight testing should continue as planned, given the importance of that missile to the sea leg of the triad. The D-5 test rate should not be cut from levels required to confidently assess weapon system performance, as has occurred with the peacekeeper and minuteman forces.

On the ACM, we concur with the DOD decision to CAP production at 520 missiles, rather than funding an additional 120, given that we found ACM to provide little operationally significant improvement over the older ALCM. However, to ensure the effectiveness of the cruise missile inventory, we see a need to hold more realistic flight tests of ALCM's survivability and of both ALCM's and ACM's performance over terrain that has not been pre-tested.

In conclusion, GAO's comparisons of weapon systems across the three legs of our strategic triad have led us to agree, as we describe in detail in our reports, with most of the president's initiatives, but also to believe that more can safely be done or omitted. That is, we think that the five recommendations listed above—in combination with the initiatives already proposed by the president—will provide for a nuclear deterrent that (1) integrates our most effective weapon systems into a leaner, less costly whole; and (2) fully serves the Nation's strategic security requirements for many years to come.

TABLE 2.—THE AIR LEG: BELIEFS VERSUS FINDINGS [1]

Belief	Finding
1. On Air Base Survivability:	
Bombers at bases have been vulnerable to surprise Soviet attack	The data show surprise attack to have been extremely unlikely.
2. On Penetration Survivability:	
Soviet air defenses have grown dramatically	High growth did not occur.
Soviet SAMs and interceptors are very effective	Combat experience and intelligence assessments indicate lesser capabilities.
B-2 is needed to preserve the penetrating bomber role	Data show B-1B and B-52H can continue to be survivable penetrators.
ACM is needed to overcome low ALCM survivability	Tests did not demonstrate low ALCM survivability.

TABLE 2.—THE AIR LEG: BELIEFS VERSUS FINDINGS [1]—Continued

Belief	Finding
3. On Target Coverage:	
Detectability and slowness make the air-leg "stabilizing"	Available data support this belief.
B–1B and B–2 have sufficient range for their strategic mission requirements	Insufficient evidence to support this belief; reliable test data are lacking.
Bombers are readily recallable and retargetable under any scenario, including nuclear war	Nuclear effects and jamming are likely to degrade C3, thus limiting recallability and retargeting.
B–2 is needed for SRT missions	Analysis shows that no special capability exists or is foreseen.
4. On Obsolescence:	
B–52 age mandates replacement	Air Force data show B–52G and H viability for many years.

[1] Only selected material on beliefs versus findings is presented here; classified information has been deleted.

TABLE 3.—THE LAMD LEG: BELIEFS VERSUS FINDINGS [1]

Belief	Finding
1. On ICBM Base Survivability:	
Silo-based ICBMs have been highly vulnerable to massive, surprise Soviet attack	Claims for high vulnerability were based on worst-case estimates of Soviet ICBM capabilities, as well as other questionable assumptions.
2. On Penetration Survivability:	
ICBMs face no effective ABM defenses	Available data support this view.
3. On Target Coverage:	
ICBM C^3 is prompt, reliable, and has great redundancy	Available data generally support this perception.
ICBMs can launch promptly after receipt of orders for attack	Available data support this conclusion, but are based on launches from test silos and simulated electronic launch tests.
Peacekeeper is very accurate and very reliable	DOD's refusal to provide critical reliability data and insufficient operational tests reduce the level of confidence in Peacekeeper's performance estimates.
Rail garrison Peacekeepers and mobile SICBMs would have the same accuracy and reliability as ICBMs in silos	Insufficient data to support this belief.

[1] Only selected material on beliefs versus findings is presented here; classified information has been deleted.

TABLE 4.—THE SEA LEG: BELIEFS VERSUS FINDINGS [1]

Belief	Finding
1. On Survivability:	
While submerged SSBNs are currently hard to detect, a breakthrough in detection technology is possible in the future that will threaten them.	Test and operational data show that submerged SSBMs are much less detectable than generally understood, both now and in future years.
2. On Penetration Survivability:	
SLBMs face no effective ABM defenses	Available data support this assumption.
3. On Target Coverage:	
C^3 to SSBNs is much slower and much less reliable than to ICBM silos	Data show C^3 to SSBNs is about as prompt and as reliable as to ICBM silos, under a range of conditions.
SLBMs cannot be used against time urgent targets due to a combination of slow C^1 and launch procedures	Compared to ICBMs, no operationally meaningful difference in time to target was found. Arms control agreements will severely reduce the number of "time-urgent" Soviet ICBM targets.
SLBMs cannot effectively attach the hardest category of Soviet targets due to insufficient accuracy	Test data show that D–5 SLBMs do in fact have this capability.
Range and deployment area limitations may weaken sea leg accuracy and survivability	SSBN patrol areas and D–5 range and estimated accuracy impose no such limitations.

[1] Only selected material on beliefs versus findings is presented here; classified information has been deleted.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 60 minutes each day, on October 2, 3, and 4.

Mr. DORNAN of California, for 60 minutes each day, on October 6, 7, 8, 9, and 10.

(The following Members (at the request of Mr. LAROCCO) to revise and extend their remarks and include extraneous material:)

Mr. FASCELL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. RICHARDSON, for 60 minutes, on September 30.

Mr. HOAGLAND, for 5 minutes, on September 30.

Mr. FALEOMAVAEGA, for 60 minutes, on October 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. DAVIS.

Mr. SCHULZE.

Mr. PACKARD.

Mr. MOLINARI.

Mr. LEWIS of California.

Mr. COUGHLIN.

(The following Members (at the request of Mr. LAROCCO) and to include extraneous matter:)

Mr. ROE.

Mr. DOWNEY.

Mr. EDWARDS of California.

Mr. CLEMENT.

Mr. FASCELL.

Mr. BORSKI.

Mr. HUCKABY.

Mr. YATRON.

Mr. CARR.

Mr. DINGELL.

Mr. BARNARD.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1435. An act to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior;

H.R. 2967. An act to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National 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;

H.R. 5428. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5630. An act to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes.

ADJOURNMENT

Mr. LAROCCO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly—at 7 o'clock and 36 minutes p.m.— under its previous order, the House adjourned until Wednesday, September 30, 1992, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4328. A letter from the Secretary of Education, transmitting Notice of Final Priority—Bilingual Education: Educational Personnel Training Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4329. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4330. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting no-

tice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4331. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4332. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a report on Lake Pontchartrain, LA, pursuant to Public Law 101-640, section 116(k)(2) (104 Stat. 4625); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 3703. A bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes; with an amendment (Rept. 102-912, Pt. 2). Ordered to be printed.

Mr. DINGELL: Committee of conference. Conference report on H.R. 3508 (Rept. 102-925). Ordered to be printed.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2588. A bill to provide for the conservation and management of Weakfish, and for other purposes; with an amendment (Rept. 102-926). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 5617. A bill to provide congressional approval of a governing international fishery agreement (Rept. 102-927). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 5809. A bill to authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, WA; with an amendment (Rept. 102-928). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 5874. A bill to establish a wetlands center at the Port of Brownsville, TX, and for other purposes; with an amendment (Rept. 102-929). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSE: Committee on House Administration. House Resolution 512. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Task Force to Investigate Certain Allegations Concerning the Holding of Americans as Hostages in Iran in 1980 in the 2d session of the 102d Congress; with an amendment (Rept. 102-930). Referred to the House Calendar.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2572. A bill to authorize an exchange of lands in the States of Arkansas and Idaho; with an amendment (Rept. 102-931, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. S. 2572. A bill to authorize an exchange of lands in the States of Arkansas and Idaho (Rept. 102-931, Pt. 2). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 2572. A bill to authorize an exchange of lands in the State of Arkansas and Idaho; with amendments (Rept. 102-931, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marines and Fisheries. H.R. 5459. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes; with an amendment (Rept. 102-932, Pt. 1). Ordered to be printed.

Mr. ROSE: Committee on House Administration. H.R. 5983. A bill to establish in the Government Printing Office a means of enhancing electronic public access to a wide range of Federal electronic information; with amendments (Rept. 102-933). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 5486. A bill to clarify the law enforcement authority of law enforcement officers of the U.S. Fish and Wildlife Service; with an amendment (Rept. 102-934). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6000. A bill to redesignate Springer Mountain National Reservation Area as "Ed Jenkins National Recreation Area" (Rept. 102-935). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6014. A bill to designate certain land in the State of Missouri owned by the United States and administered by the Secretary of Agriculture as part of the Mark Twain National Forest (Rept. 102-936). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5605. A bill to authorize and direct land ownership consolidation in the Cedar River Watershed, Mt. Baker-Snoqualmie National Forest, WA; with an amendment (Rept. 102-937, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2548. A bill to authorize the Secretary of the Interior to establish an Abraham Lincoln Research and Interpretive Center; with an amendment (Rept. 102-938). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5119. A bill to authorize the construction of the Cumberland Mountain Trail in the States of Kentucky and Virginia, to study the establishment of the Cumberland National Recreation Area in the States of Kentucky and Virginia, and for other purposes (Rept. 102-939, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Merchant Marine and Fisheries. H.R. 5119. A bill to authorize the construction of the Cumberland Mountain Trail in the States of Kentucky and Virginia, to study the establishment of the Cumberland National Recreation Area in the States of Kentucky and Virginia, and for other purposes (Rept. 102-939, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4087. A bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes (Rept. 102-940, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 4087. A bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes (Rept. 102-940, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 4157. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; with an amendment (Rept. 102-941, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 3095. A bill to restore and clarify the Federal relationship with the Jena Band of Choctaws of Louisiana (Rept. 102-942). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5954. A bill to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policies, and for other purposes; with an amendment (Rept. 102-943). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 1183. An Act to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, UT, and for other purposes; with an amendment (Rept. 102-944). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5118. A bill to exchange lands within the State of Utah, between the United States and the State of Utah; with an amendment (Rept. 102-945). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 4489. A bill to provide for a land exchange with the city of Tacoma, WA; with an amendment (Rept. 102-946). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5548. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM; with an amendment (Rept. 102-947). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 1439. An act to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA; with amendments (Rept. 102-948). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 1538. An act to establish the Mimbres Culture National Monument and to establish an archaeological protection system for Mimbres sites in the State of New Mexico, and for other purposes; with an amendment (Rept. 102-949). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 4590. A bill to establish the Spring National Recreation Area in Nevada, and for other purposes; with amendments (Rept. 102-950). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5906. A bill to direct the Secretary of the Interior certain lands with the District of Columbia and to regulate advertising and related commercial activities in the National Park System, and for other purposes; with amendments (Rept. 102-951). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5853. A bill to designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System; with amendments (Rept. 102-952). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2563. An act to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes; with amendments (Rept. 102-953). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 6046. A bill to make technical corrections in certain public laws (Rept. 102-954). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5122. A bill relating to the settlement of the water rights claims of the Jicarilla Apache Tribe; with amendments (Rept. 102-955). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1987. A bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standard for coverage under that act, and for others purposes. (Rept. 102-956). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ (for himself, Mr. WYLIE, Mr. ANNUNZIO, Mr. BACCHUS, Mr. MCCOLLUM, and Mr. BAKER):

H.R. 6050. A bill to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DOWNEY:

H.R. 6051. A bill to increase the number of weeks for which emergency unemployment compensation is payable; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.R. 6052. A bill to provide a fair and reasonable national maximum speed limit; to the Committee on Public Works and Transportation.

By Mr. SCHULZE:

H.R. 6053. A bill to amend the Harmonized Tariff Schedule of the United States to restore the duty that prevailed under the Tariff Schedules of the United States for certain agglomerated cork products; to the Committee on Ways and Means.

By Mr. STOKES:

H.J. Res. 555. Joint Resolution to designate October 1992 as "National High Blood Pressure Education Program's 20th Anniversary Month"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LAROCCO:

H.R. 6054. A bill for the relief of Jorge Luis Dos Santos, Suzete de S. Tenorio, Luiz Antonio Cardoso Tenorio, and Jullye Tenorio; to the Committee on the Judiciary.

By Ms. SNOWE:

H.R. 6055. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *El Bongo*; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 432: Mr. STUMP.

H.R. 609: Mr. COX of California and Mr. PENNY.

H.R. 1181: Mr. JACOBS.

H.R. 1310: Mr. MCNULTY.

H.R. 2095: Mr. ANDREWS of Texas.

H.R. 2385: Mr. MARTIN, Mr. KOLBE, Mrs. MEYERS of Kansas, and Mr. FRANKS of Connecticut.

H.R. 2534: Mr. WEBER and Mr. SWIFT.

H.R. 2922: Mr. GEJDENSON, Mr. DOWNEY, and Mr. FOGLIETTA.

H.R. 3171: Mr. PAXON.

H.R. 3475: Ms. KAPTUR.

H.R. 3918: Mr. BRYANT, Mr. LEWIS of Florida, Mr. MAZZOLI, and Mr. GOSS.

H.R. 4157: Mr. ROGERS.

H.R. 4401: Mr. SHAYS.

H.R. 4710: Mr. RIDGE.

H.R. 5064: Mr. BACCHUS and Mr. DE LUGO.

H.R. 5112: Mr. COX of California and Mr. GILCHREST.

H.R. 5153: Mr. INHOFE and Mr. SOLOMON.

H.R. 5216: Mr. JOHNSTON of Florida, Mr. JOHNSON of South Dakota, Mr. SPENCE, Mr. DICKINSON, AND MR. LOWERY of California.

H.R. 5337: Mr. LEWIS of Florida and Mr. STALLINGS.

H.R. 5360: Ms. DELAURO.

H.R. 5772: Mr. SCHIFF, Mr. BEREUTER, and Mr. ENGLISH.

H.R. 5777: Mrs. MINK, Mr. HERTEL, and Mr. BUSTAMANTE.

H.R. 5790: Mr. BUNNING.

H.R. 5823: Mr. JOHNSON of South Dakota.

H.R. 5832: Mr. SANDERS and Mr. DOOLEY.

H.R. 5844: Mr. MCCLOSKEY.

H.R. 5864: Mr. DERRICK and Mr. HALL of Ohio.

H.R. 5897: Mr. KYL, Mr. LIVINGSTON, and Mr. WELDON.

H.R. 5948: Mr. GORDON and Mr. BEREUTER.

H.R. 5957: Mr. HERTEL and Mr. BUSTAMANTE.

H.R. 6021: Mr. HASTERT.

H.J. Res. 380: Mr. PURSELL, Mr. GEREN of Texas, Mr. GEJDENSON, Mr. FASCELL, Mr. LAFALCE, Mr. NOWAK, Mr. RIGGS, Mr. STUMP, Mr. TORRICELLI, Mr. HYDE, Mr. ECKART, Mrs. BOXER, Mr. INHOFE, Ms. HORN, Mr. LEHMAN of Florida, Mr. MOODY, Mr. MURPHY, Mr. MURTHA, Mr. CALLAHAN, Ms. DELAURO, Mr. HOAGLAND, Mr. SAWYER, Mr. BOEHLERT, Mr. PALLONE, Mr. OWENS of New York, Mr. KLUG, Mr. TAUZIN, Mr. DICKINSON, Mr. TOWNS, Mr. SAXTON, Mr. STOKES, and Mr. TRAFICANT.

H.J. Res. 399: Mr. BROOMFIELD, Mr. MARKEY, Mr. BRYANT, Mr. PASTOR, Mr. SAXTON, Mr. INHOFE, Mr. MARLENEE, and Mr. LIVINGSTON.

H.J. Res. 400: Mr. VISCLOSKY, Mr. HALL of Ohio, and Mr. RITTER.

H.J. Res. 458: Mr. ANDREWS of New Jersey, Mr. FORD of Tennessee, Mr. GEREN of Texas, Mr. GUNDERSON, Mr. HATCHER, Mr. MAVROULES, Mr. MILLER of Washington, Mr. MORRISON, Ms. MOLINARI, Mr. SAVAGE, Mr. VOLKMER, Ms. WATERS, Mr. STUDDS, Mr. NEAL of North Carolina, Mr. RAVENEL, and Mr. PETERSON of Florida.

H.J. Res. 463: Mr. MARKEY, Mr. HOAGLAND, Mr. LAFALCE, Mr. JOHNSTON of Florida, Mr. MCEWEN, Mr. OBERSTAR, Mr. SHARP, Mr. WYDEN, and Mr. HUTTO.

H.J. Res. 479: Mr. MACHTLEY, Mr. GORDON, Mr. KOPETSKI, Mr. TAYLOR of Mississippi, Mr. ALLEN, Mr. BROWN, Mr. BACCHUS, Mr. KANJORSKI, Mr. COLEMAN of Texas. Mr. MAVROULES, Mr. KILDEE, Mr. HEFNER, and Mr. CONYERS.

H.J. Res. 524: Mr. WYDEN, Mr. DORGAN of North Dakota, and Mr. GUARINI.

H.J. Res. 532: Mr. UPTON.

H.J. Res. 538: Mr. MARKEY, Mr. DURBIN, Mr. JONTZ, Mr. MURTHA, Mr. JOHNSTON of Florida, Mr. LEVINE of California, Mr. OWENS of New York, Mr. SANDERS, Mrs. UNSOELD, Mr. ENGEL, Mr. SCHEUER, Mr. PANETTA, Mr. SCHUMER, Mr. FROST, Mrs. MINK, Mr. HUCKABY, and Mr. JACOBS.

H.J. Res. 542: Mr. FAWELL, Mr. ACKERMAN, and Mr. CHAPMAN.

H.J. Res. 543: Mr. RAVENEL, Mr. MCCOLLUM, Mr. MARKEY, Mr. LEACH, Mr. DE LA GARZA, Mr. TOWNS, Mr. LANTOS, Mr. SANGMEISTER, Mr. CLINGER, Mr. JENKINS, Mr. TRAFICANT, Mr. LAROCCO, Mr. LANCASTER, Mr. FALEOMAVAEGA, Mr. GEKAS, Mr. DELLUMS, Mr. SCHUMER, Mr. AUCOIN, Mr. BILBRAY, Mr. FORD of Tennessee, Mr. SWETT, Mr. VALENTINE, Mr. POSHARD, Mr. PURSELL, Mr. TANNER, Mr. EVANS, Mrs. PATTERSON, Mr. ENGEL, Mr. MFUME, Mr. SPENCE, Mr. RANGEL, Mr. HUGHES, Mr. YOUNG of Florida, Mr. MATSUI, Mr. ARCHER, Mr. LAFALCE, Mr. DE LUGO, Ms. DELAURO, Mr. COUGHLIN, Mr. HERTEL, Mr. LEWIS of California, Mr. ROGERS, Mr. YATRON, Mr. THOMAS of Georgia, Mr. WISE, Mr. ROSE, Mr. SMITH of Texas, Mr. MCDADE, Mr. ROE, Mr. WOLPE, and Mr. LEVIN of Michigan.

H.J. Res. 547: Mr. BROOMFIELD, Mr. BROWN, Mr. BUNNING, Mr. COOPER, Mr. DICKINSON, Mr. DONNELLY, Mr. EDWARDS of Texas, Mr. GILMAN, Mr. HARRIS, Mr. HOUGHTON, Mr. LOWERY of California, Mr. MOAKLEY, Mrs. MORELLA, Mr. MYERS of Indiana, Mr. PACKARD, Mr. REED, Mr. SARPALIUS, Mr. SAWYER, Mr. SERRANO, Mr. SIKORSKI, Mr. VOLKMER, Mr. WISE, and Mr. EDWARDS of Oklahoma.

H.J. Res. 550: Mr. ANDREWS of Maine, Mr. CRAMER, Mr. ESPY, Mr. GUARINI, Mr. HARRIS, Mr. HAYES of Illinois, Mr. HORTON, Mr. MCDERMOTT, Mr. MCNULTY, Ms. OAKAR, Mr. PALLONE, Mr. SLATTERY, Mr. SMITH of New Jersey, Mr. CONYERS, Mr. DWYER of New Jersey, Mr. GRANDY, Mr. MCDADE, Mrs. MORELLA, and Mr. RAY.

H.J. Res. 551: Mrs. JOHNSON of Connecticut, Mr. DAVIS, Mr. BLILEY, Mr. BATEMAN, Mr. YOUNG of Alaska, Mr. CALLAHAN, Mr. GILCHREST, Mr. GUNDERSON, Mr. LEACH, Mr. BENNETT, Mr. HOYER, Mr. FROST, Mr. CLEMENT, Mr. ROYBAL, Mr. SAWYER, Mr. SCHEUER, Mr. VALENTINE, Mr. SOLARZ, Mr. TANNER, Mr. TRAFICANT, Mr. TRAXLER, Mr. ERDREICH, Mr. ESPY, Mr. SERRANO, Mr. FASCELL, Mr. HUBBARD, Ms. DELAURO, and Mrs. MINK.

H.J. Res. 552: Mr. ACKERMAN, Mr. GONZALEZ, Mr. GUARINI, Ms. HORN, Mr. WALSH, Mr. PALLONE, Mr. SERRANO, Mr. MCDERMOTT, Mr. SAWYER, Mr. GILMAN, and Mr. OWENS of Utah.

H. Con. Res. 344: Mr. PAYNE of New Jersey.

H. Con. Res. 358: Mr. WALSH and Mr. BUSTAMANTE.

H. Res. 272: Mrs. MEYERS of Kansas.

SENATE—*Tuesday, September 29, 1992*

The Senate met at 9:15 a.m., and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Have mercy upon me, O God, according to thy lovingkindness, according unto the multitude of thy tender mercies blot out my transgressions. Wash me thoroughly from my iniquity, and cleanse me from my sin.—Psalm 51:1-2.

Our Father, our King, in light of the promise given through Isaiah of forgiveness and cleansing, we turn to You. We acknowledge our need of repentance: In days of prosperity, when "things never looked better," intoxicated with power and pleasure, we allowed greed and lust to run their course. Now we see joblessness, homelessness, poverty, hunger, and hopelessness. Our streets are unsafe because of drugs and crime. We sought liberty without law, choice without consequences, comfort without responsibility. We have forgotten God. We are an angry people, angry with ourselves, but we blame others for our dilemma.

Grant us grace, patient Father in Heaven, to face our deep collective need and turn to You for the renewal so desperately needed in our land. Be merciful, O Lord our God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 29, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

Mr. MITCHELL. Am I correct in my understanding that the Journal of the proceedings has been approved to date?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

EXECUTIVE SESSION

TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START TREATY)—TREATY DOC. NO. 102-20

PROTOCOL TO THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—TREATY DOC. NO. 102-32

The ACTING PRESIDENT pro tempore. The Senate will now go into executive session and resume consideration of Executive Calendar Nos. 45 and 46, which the clerk will report.

The legislative clerk read as follows:

A treaty (Treaty Doc. No. 102-20) with the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (the START Treaty); a protocol (Treaty Doc. No. 102-32) to the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms.

The Senate resumed consideration of the treaty and the protocol.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, there will now be approximately 1 hour for further debate on the treaty and protocol equally divided and controlled in the usual form.

At 10:15 a.m., the Senate will vote on whether or not to invoke cloture on the treaty and protocol.

The time will be managed.

Mr. LUGAR. Mr. President, I suggest that in fairness, as the Senator from Rhode Island and I are proponents of the treaty and the Senator from Wyoming is the opponent, that 30 minutes be controlled by the distinguished Senator from Wyoming and 30 minutes by Senator PELL.

Mr. MITCHELL. Mr. President, I think that is fair and appropriate.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield myself 1 minute here. We had a good discussion yesterday. Not too many new arguments were raised but we will raise them again.

And in this regard, several Senators have wondered why it is that the START Treaty does not require the dismantling of warheads and the destruction of missiles. I have raised this concern myself. Frankly, I believe that this was simply impossible to achieve in the atmosphere of antagonism and mistrust that characterized the cold war.

With the collapse of the Soviet empire, there has been a dramatic and fortuitous change that has opened the way for the destruction of tactical nuclear warheads. In the future, I believe we will be able to achieve the verifiable destruction of strategic nuclear warheads.

Such steps were simply not achievable in the START Treaty. The administration was opposed to required warhead destruction for several reasons. First, the administration wanted to reuse the W-76—Trident—and the W-87—MX—warheads, rather than destroy them. Second, the administration did not want to have intrusive verification of their Department of Energy warhead dismantlement facilities or warhead storage facilities. Because of the concerns, START does not constrain nondeployed warheads. START constrains the means to deliver these nuclear warheads and the numbers of deployed warheads, but it does not constrain the nondeployed warheads or the warheads from eliminated systems.

There is always a possibility that the other side could have extra warheads on undeclared, nondeployed missiles. These missiles would be most effective if they could be launched from mobile missiles that could be reloaded in a relatively short time. They would be much less effective if they were to be launched from silos which take days to reload, and are generally considered to be much less effective in any kind of extended nuclear conflict.

The United States encouraged the retention of formerly deployed missile systems in order to use them for testing assets, space-launched vehicles, and for the U.S. strategic defense initiative. START contains a number of provisions which limits the usefulness of such surplus missiles such as prohibiting the storage of these systems within 100 kilometers of missile launchers, the notification of the storage locations, the banning of rapid-reload systems, the banning of soft-launch facilities, the destruction of nondeployed mobile missiles beyond the limit of 250—no more than 125 may be rail-mobile missiles—the destruction of nondeployed mobile launchers beyond the limit of 110—no more than 18 rail-mobile launchers—and other provisions. The administration has examined the pos-

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

sible uses of these retired systems and does not consider that they add significant additional dangers to the U.S. national security.

Virtually all computer models show that the number of additional United States warheads destroyed by any clandestine warheads from a Russian breakout of the treaty would be relatively small. This is so, because the bombers on alert would then be in the air, the submarines at sea would not be affected, and the targeting of more than two warheads on a silo would not be very effective.

The declining marginal utility of additional nuclear warheads is widely accepted by the Joint Chiefs of Staff and other military scholars. Because of this declining marginal utility, it is difficult to quantify the amount of extra warheads which would be a military significant violation of START since the marginal ability of additional Russian warheads to destroy additional United States warheads is relatively small.

A breakout from the treaty by a large excess of mobile missiles has been one of the most important areas addressed by the START verification regime. Because mobile missiles could be reloaded more easily than silos and because the United States cannot readily count deployed mobile missiles, a great deal of effort has been expended in the START negotiating process to develop a very complex verification regime which gains some access to the following aspects of mobile missiles: flight tests for development and reliability, production, movement, deployment, storage, maintenance, and elimination. In addition, special access visits can be requested of undeclared sites. The challenging party can call a special meeting of the JCIC to address suspicions in this area. It is the duty of the challenged party to convince the challenger that the suspicions are unfounded. If this cannot be done, the challenging party can request a special access visit to the suspicious site, but the challenged party can refuse such a request.

Mr. President, despite the many protections built into the START Treaty, I cannot stand before the Senate and tell you that there can be no cheating at all. There probably will be compliance problems. For example, biological weapons work was recently discovered in Russia. With a good effort, we were able to stop that program and gain onsite inspection rights.

We must put the possibility of compliance problems into perspective. As Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, told the Foreign Relations Committee:

> We are not dueling with each other again, my warhead against your warhead. The question is, does the United States' force structure give us enough capability to deliver a devastating blow against any nuclear State that may choose to attack us? If it does, then that is a deterrent to that nuclear State ever contemplating such an action?

Senators and administration experts alike can debate the adequacy of verification measures endlessly. But on the crucial central elements of START, there can be no debate. START will require the destruction of 154 heavy ICBM silos. That we can verify. START will require the destruction of hundreds of other strategic offensive arms. That we can verify. START will require extensive notifications and data. That we can verify. START will require the broadcast of unencrypted telemetry. That we can verify.

It is true that nondeployed mobile ICBM's cannot be verified as well as we would like. The Intelligence Committee and the Foreign Relations Committee both considered this issue in detail and agreed that, on balance, the provisions were acceptable. The Chairman of the Joint Chiefs of Staff explicitly testified that he was unconcerned by any problems associated with nondeployed mobile ICBM's. To forego the benefits of direct, verifiable reductions in ICBM's which threaten the United States today because of concerns over the verifiability of second-order provisions, which are not of concern to military professionals, would be the height of irresponsibility.

There are two aspects to the problems of assessing compliance. First, we must be able to agree that a violation has occurred. Second, we must be able to do something about it. With regard to the first, the START Treaty is hundreds of pages long precisely because our negotiators sought to ensure that our rights and obligations were unambiguous. This should ease the burden of making compliance judgments.

With regard to the fundamental problem of what to do about violations, it is, of course, true that there is no international police court that can compel corrections. Nor would we allow such a system to operate. But we are not without the ability to act. The illegal Krasnoyarsk radar no longer stands. Other violations have been corrected and not repeated. The task is obviously a difficult one. But rejecting arms control is not the answer. If we abolish all arms control treaties, the Russian compliance record will be perfect, but our national security will be lessened, not enhanced.

I now yield any time that he may desire to the ranking Republican Member of the Committee on Foreign Relations.

Mr. LUGAR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

CENTRAL LIMITS AND KILLER AMENDMENTS

Mr. LUGAR. Mr. President, yesterday afternoon the Senate heard a series of indictments of its committees' work on the START Treaty. Chairman PELL and I were asked to respond to a number of questions on everything from the MOU data on throw-weight, perceived transgressions of past arms control agreements, to the exemption of retired SS-25 road-mobile missiles from the limit of 250 nondeployed, mobile ICBM's, and the development of the mythical Fat Boy missile.

But if the committee does understand one thing, it is that the heart of the START Treaty is to be found in the four central limits in article II. They work together to capture real military capability. And it is on that central focus that I wish to center these remarks this morning.

The first basic limit is 1,600 deployed delivery vehicles, with an accompanying sublimit of 154 heavy ICBM's. This is an actual, physical limit that constrains the development of ICBM's and their launchers, SLBM's and their launchers, and heavy bombers.

The second basic limit is 6,000 warheads; and the third limit is 4,900 ballistic missile warheads. There are sublimits on heavy ICBM warheads, and on warheads on mobile ICBM's. Because the treaty uses the term "warhead" as a unit of account, the numbers that count against the 4,900 and 6,000 limit are derived by counting rules, and those counting rules result in an attribution of warheads to ballistic missiles which is very close to reality.

The fourth and final central limit is 3,600 metric tons of ballistic missile throw-weight.

Mr. President, the treaty does not have intermediate levels for throw-weight or for heavy ICBM's, but a separate, legally binding letter obligates the former Soviet Union—and now the four States which have replaced it—to eliminate heavy ICBM launchers at the rate of at least 22 a year until the limit of 154 is reached.

The treaty also has a number of auxiliary limits, of which the most important are a limit of 250 spare mobile ICBM's, and a limit of 110 spare launchers for mobile ICBM's, and a limit of 75 modified bombers.

Mr. President, I have reviewed these four central limits and key sublimits in article 2 of the treaty in light of the critical comments yesterday by the Senator from Wyoming. I highlight these central limits for my colleagues as well because a review of the amendments filed in connection with the treaty—which now include 68 amendments that have been filed—include many whose intent or consequence is a major revision of the basic contract—the basic central limits—between the parties contained in the treaty. In other words, many of these filed amendments would seek to change significantly the rights and obligations of the parties.

Examples of these kinds of amendments include:

Amendments which would require the elimination of all MIRV'd ICBM's

before the START Treaty can come into force, amendments 3262 and 3263;

Amendments which significantly change the settlement of the heavy ICBM issue in the treaty, amendments 3264, 3265, 3266, and 3267;

Amendments which would also require the elimination of ICBM's equipped to carry MIRV's before the START Treaty can enter into force, amendments 3274, 3275, 3278, 3279, and 3280;

An amendment which requires the ratification of the START II Treaty before this underlying START Treaty can enter into force, amendment 3285;

Another amendment which again changes the settlement on heavy ICBM's, amendment 3286.

Mr. President, the Senate needs to be clear on this point:

To attempt to change the START Treaty in this way—that is, to seek to revise the central limits of the treaty contained in article II—would be tantamount to a call for the negotiation of a totally new treaty.

Such a negotiation would, of necessity, involve all of the other four parties, now that the START Treaty is multilateral. At a minimum, this would be time consuming, and at maximum, this would lead to an unraveling of the START Treaty process. Such action would be tantamount to the Senate voting down the START Treaty.

In addition, Mr. President, in any such new negotiation, Russia would not agree to such proposed changes without significant and adverse changes to the obligations applicable to United States forces, and perhaps not even then with such changes.

Thus, to adopt amendments such as many of those on file—and I have illustrated in particular certain ones—would likely destroy the START Treaty and lead us toward many of the negative results that the chairman and I discussed yesterday in connection with a failure of the treaty to come into force—whether it be an increased risk of nuclear proliferation or enhanced United States vulnerability should Russia revert to a regime hostile to American interests.

I appreciate the critical remarks made yesterday concerning the central limits of the treaty contained in article II. But should such recommendations take amendment form and be adopted, the negative consequences I mentioned should be considered likely.

That is why amendments of this nature will be referred to as killer amendments—they seek to change the basic contract between the parties on central limits—and why the Senate should oppose them.

When some of my colleagues complain about a rush to judgment on this treaty or speak of arms control as a relic of the cold war, what they mean is that they want no treaty at all or a brandnew renegotiated one. That is their option. And many of their amendments are offered with these objectives in mind.

The Senate should be clear on these objectives when votes occur on the various amendments filed at the desk.

Mr. President, I would add, in conclusion, that I take this occasion prior to cloture to make this point because, with 86 amendments filed and a limited time available for all Senators, it is well for Senators to consider in advance the structure or the strategy, at least, which is involved in this debate, both precloture and postcloture, should it be invoked.

Mr. President, throughout the debate I will refer to these comments and to these central core issues which, at least in the judgment of many Senators, would cause renegotiation of the treaty or its defeat.

I thank the Chair.

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

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

The ACTING PRESIDENT pro tempore. The Chair will advise that the Senator has 28 minutes to begin with.

Mr. WALLOP. I understand. I yield myself 10 of those 28. I wish to be advised when that time is up.

Mr. President, I said yesterday and restate again today that the Foreign Relations Committee, the Armed Services Committee, and the Intelligence Committee refused to allow opponents of the treaty, who had requested to be heard, their day in front of the committees.

This is not the way the Senate ought to treat its role, its unique role in modern democracies, over the treaty-making process in America. I was told that these were not credible people. Yet Dr. Sven Kraemer was invited by those who said they were not credible people to be one of their chief witnesses in the INF Treaty.

The same may be said of Dr. Frank Gaffrey and others who asked, and were denied, the opportunity to be heard.

My friend from Indiana referred to the central limits that are contained in this treaty. But the central limits refer only to deployed ICBM's SLBM's, and bombers. And the word "deployed" is an artful evasion of reality.

The Senator knows and the Senate should know that nondeployed systems are not limited. They are not destroyed and they are still very lethal. The term "deployment" is misleading because the nondeployed missiles do not need their deployed launchers to be fired and to threaten the American people.

The amendments that the Senator from Indiana referred to, Mr. President, are those agreed to by Presidents Yeltsin and Bush last June, and promised to be delivered to the Senate by Labor Day by then Secretary of State Baker.

But somehow or another the administration did not get around to beginning their negotiations until last week. I said yesterday and I restate today, this is a stealth treaty, the treaty nobody knows.

There were four of us here on the floor of the Senate yesterday—once five. No one from the Armed Services Committee and no one from the Intelligence Committee was here to answer questions posed by this Senator. No press was in the gallery. Senators were off enjoying a holiday or campaigning or doing other kinds of things—anything but their accountable responsibility in the process for making treaties.

The majority leader by his decision—and within his rights, clearly—has by filing a cloture motion and allowing the debate to proceed on a day when nobody was here including the chairman and ranking members of the responsible committees, gave us an hour today when some Senators may be in town just before this vote to try to make a case that took the Senator from Wyoming in excess of 5 hours to make yesterday.

The Senate is willing and able to call itself responsible. That is fine. But it is not and cannot be judged to have been accountable to this unique role amongst modern democracies.

Forcing us to close our eyes to valid questions and real problems merely to accommodate election year pressures would be the height of irresponsibility. We have the opportunity, but it is to be denied us, to clarify many of the outstanding dilemmas posed by the treaty—but only if the Senate is willing to take time to focus on these issues. And it has declared itself to be unwilling to take time.

Yesterday's debate demonstrated that lack of seriousness. I mentioned that nobody was here. Today we are being asked to end open debate 1 hour after the Senate comes into session and go into the constraints of the rules of cloture.

Mr. President, this is a sham. Senators do not care about the contents of the treaties they give advice and consent to. Let me again quote as I did yesterday from the distinguished Senator from West Virginia's statement on the INF Treaty in 1988. "The important thing is that it be a good agreement, not dictated by calendar deadlines, not dictated by election year politics." Yet that is precisely what the case is right here today.

What yesterday's debate did was to establish beyond a doubt that there are serious legal and substantive problems existing within the treaty. These serious and substantive problems were recognized by the President of the United States and the President of the Russian Republic. And yet we are to be denied the opportunity to even have consideration of amendments to that

event by the simple reason—by saying that these are deal breakers. Oh, and what a deal, Mr. President, what a deal.

We learned yesterday that despite the world "reduction" the START Treaty does not in fact require any weapon to be reduced. This treaty limits only launchers. No nuclear weapons must be destroyed. No ballistic missiles must be destroyed. And the treaty does not limit instruments of war, those things which ultimately can be shot, fired, or directed toward the free world and the American people.

We learned that due to a lack of limits on nondeployed SLBM's and fixed ICBM's and a dubious limit on mobile missiles that START provides a license to build virtually as many of all types as each side chooses to build. We learned the treaty is outdated and obsolete without the so-called START II treaty, which is, Mr. President, one of the very specific concerns raised by the Senate Armed Services Committee which was ignored by the Foreign Relations Committee. They simply collated the reports of the committees, put them into one, put it out here, laid the treaty in front of us and never considered the condition that was suggested by the Armed Services Committee.

So unsatisfactory was it that the Armed Services Committee dedicated over twice as many pages to START II as it did to START I; slightly less than 2 pages was the report of the Senate Armed Services Committee on START I.

We learned that there are serious legal questions regarding the ability and willingness of our treaty partners to enter the START Treaty into force and that there are serious legal ambiguities regarding the Lisbon protocol, without which this treaty has no standing. We learned the Armed Services Committee report recommends conditions to the Resolution of Ratification that the Foreign Relations Committee did not include because of their hurry to get the report out.

Mr. President, we learned that in negotiating the START Treaty the administration by its own admission did not feel bound by the Jackson amendment which formed the basis for the Senate's approval of the SALT I agreement. After all Scoop Jackson did for the national security of this Nation and to ensure equality in arms control, his amendment was dismissed as a mere sense of the Senate.

Well, I am here to say that the Senate once had more sense than it is exhibiting today.

We learned that despite years of attempts to get a ban on mobile ICBM's, that the START Treaty allows the Russians virtually unlimited numbers of mobile ICBM's and this, in effect, allows them a monopoly on such systems and thoroughly undermines key verification provisions. And speaking of verification, we learned the Intelligence Committee raised important concerns about the verifiability of key provisions, yet no member of the Intelligence Committee was present to describe their report's findings and no indication came from the Foreign Relations Committee that they paid them any heed.

We learned that potential violations of the START Treaty are occurring while we speak, and we know that to be the case; that a closed session of the Senate is clearly in order to clarify many serious and sensitive matters, but that under the terms and conditions of cloture having been invoked, that it is clearly impossible for us to receive any benefit from such a closed session.

We learned that the Parliamentarian was unable to answer questions about how this would be treated, this closed session. We learned that the Senate is unprepared to go through with this debate, and yet it is seeking to go ahead anyway.

We cannot get parliamentary rulings, though they were submitted last Friday. We could not get rulings yesterday. I suspect we will get them today and I suspect I know why we could not get them before.

We learned that potential violations of the START Treaty are occurring, as I said, and that these are known by Members, or ought to be known by Members taking care of this.

Regarding the Fat Boy missile, the follow-on to the SS-25, the so-called limits referred to by the Senator from Indiana on mobile missiles actually allow for an increase in the number known to exist. And the follow-on missile will replace the existing missile, and under the terms of nondeployed missiles they would have two of what they now have one of—one vastly improved.

The proponents of the START Treaty have stated the premise that since the cold war is over we do not have to worry about the details of arms control agreements. I share with them a great deal of trust in Boris Yeltsin.

But let me say clearly to the Senate and to the American people that the constraints of a treaty are not on the intentions of leaders but on the capabilities of leaders, and if the constraints in the treaty do not in fact reduce those capabilities then the Senate has the obligation to look clearly at what can be done, should someone come along with different intentions.

Everyone has told us—everyone has told us—that the control that Mr. Yeltsin exercises over his military is tenuous at best. Everyone has warned that, should he fail, that some mysterious Darth Vader is likely to replace him. Everyone has told us that the reason we have to get this treaty in place is to deny those evil forces the opportunity to function when they come to power.

I am here to say, Mr. President, that this treaty provides those dark forces with the ability to function and actually removes from this country and the moderate forces in Russia and the successor States the ability to get to the constraints in START II. We have been promised time after time in the whole arms control process that one thing is absolutely clear, that if we only will do this treaty, a good one will follow it and not to worry about the constraints in here. It goes back to 1972 when Gerard Smith, the negotiator of the ABM Treaty, said that, if we did not get significant reductions in the heavy threatening missiles of the day, we would have to in 5 years consider withdrawal from the treaty. Did we? No. Did they decrease? No; they increased.

It is not intentions that I question here, either of the Foreign Relations Committee or of Mr. Yeltsin or of Mr. Bush. It is the capabilities that can be arrayed against and threaten the American people and our survival. This treaty cannot stand that rigorous test. We are told that we need not worry about cheating and, even if cheating occurs, that it would not be significant. That is from the Chairman of the Joint Chiefs of Staff. This is not the position of a serious power with a sense of its own history. If perpetual peace is upon us, Mr. President, then the treaty is irrelevant. If we need to be prepared for difficult times ahead, then the treaty does not measure up.

Mr. President, let me conclude by saying, in invoking cloture, the Senate will be shirking its constitutional duty to provide advice and consent. no Senator is sufficiently familiar with these terms and the problems in this treaty to accept a time limitation at this point.

I will say, Mr. President, that, if I am wrong—and I am perfectly willing to concede that that is one of the many times in my life that I have been and could be again—I and all of us will praise the Lord and give great thanks for our deliverance. But, Mr. President, if I am right, who will be around to hear us weep?

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

Mr. LUGAR. Mr. President, how much time remains on the proponents' side?

The ACTING PRESIDENT pro tempore. Nineteen minutes. The Senator from Wyoming has 14 minutes, 18 seconds. Who yields time?

Mr. PELL. I yield myself 2 minutes.

Mr. President, I think we should look at the whole picture and see where this treaty is in the general scheme of things, the general relationship we have with the countries that make up the former Soviet empire. By ratifying START, in my view, we are not settling for second best. By suggesting that we are does not square with the facts. In fact, when we look back over

these past years since nuclear weapons were brought into the area of discussion, START is the most far-reaching nuclear arms control agreement that we have experienced.

While past efforts like SALT I and SALT II allowed the significant nuclear buildup, START will actually lead to major stabilizing reductions. It may not reduce the fissile material, but what it does do is it reduces the number of vehicles that carry that material, and that is a major step forward, as I think we all know.

Delay at this time would be unwise. We need to get START in place so that we can lock in the reductions it requires as a hedge against the future emergence of unfriendly regimes. We can implement, too, the verification regime and realize the treaty's benefits of openness and transparency. The collapse of communism and breakup of the Soviet Union gave us an opportunity to increase stability while reducing strategic offensive arms well below the START level.

Mr. President, I yield the floor at this time.

Mr. LUGAR. Mr. President, will the distinguished Senator yield to me 2 minutes of time?

Mr. PELL. I yield 2 minutes to the Senator from Indiana.

Mr. LUGAR. Mr. President, we are facing a dramatically different world than the one that emerged from the failed coup last August in the former Soviet Union. Some Members have asked whether there is still a need for ratification of START.

The Foreign Relations Committee posed this question to Secretary Baker and many of our witnesses, and there emerged seven basic reasons why ratification and implementation of the START Treaty remains important.

First, to encourage quick action by Ukraine, Belarus, and Kazakhstan to adhere to the Nuclear Non-Proliferation Treaty as non-nuclear-weapon States parties. The sooner we bring START into force, the sooner these States will be obligated to join the NPT and to begin eliminating nuclear weapons and strategic offensive arms from their territories.

Second, to ensure broad international support for the Nuclear Nonproliferation Treaty, which is due for extension in 1995. The nonnuclear States have traditionally regarded the continued pursuit of arms reductions as important to the success of the NPT. Failure to ratify START could be seen by some of the nonnuclear States as a rejection of nuclear arms control.

Third, to give the United States a window on the former Soviet Union. The START notification and verification provisions will provide unprecedented openness and transparency during a time of turmoil inside the former Soviet Union.

Fourth, to enhance stability in the successor States of the Soviet Union. START resolves major nuclear weapons issues among the four largest and most heavily armed successor States and thus removes these issues as a source of potential tension and conflict.

Fifth, to ensure that forces of the former Soviet Union are reduced when United States forces are reduced. As the United States reduces its forces in recognition of the changed international situation, the Senate has an obligation to ensure that the States replacing the former Soviet Union are obligated to reduce as well. We need the START Treaty to lock in those reductions.

Sixth, to establish a foundation for still deeper cuts. The June summit agreement between Presidents Bush and Yeltsin will make even more dramatic reductions in strategic forces. But that agreement depends on START and assumes START verification provisions will be put in place.

Finally, Mr. President, seventh, to hedge against a failure of democracy in the States of the former Soviet Union. While we are all hopeful, we cannot be certain that democracy will succeed. If new, unfriendly regimes come to power, we want those regimes to be legally obligated to observe START limits and verification provisions.

I yield the floor.

Mr. WALLOP. Mr. President, I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I admitted yesterday and I will admit again today that the world is changed. This is not about the cold war and this is not attributing to the Russian Republic or the successor Republics the same kind of evil dimensions that were attributable to the Soviet Union. But the Senator from Indiana says one of the conditions is the successor Republics join the NPT. In what I described yesterday as a catch-22, they have conditioned their admission to the NPT, the Non-Proliferation Treaty, on the internationally supervised destruction of these weapons, which the treaty does not call for. The only entity likely to be bound by this treaty, the way it is now, is the Government of the United States.

I will say again, Mr. President, that deployment of the SS-18, the one thing we set about in START I to eliminate, continues on. As we speak, new deployments are going on in Kazakhstan, yet they have to be removed under the terms of the treaty and the signature protocol, but there is no means of assuring that compliance and none is insisted on, and that was dismissed as a gambit yesterday by the members of the Foreign Relations Committee.

They say it provides the foundation for deeper cuts. It does no such thing. In fact, by providing the means by which abnormal imbalance of power in their favor exists, there is no reason to proceed to the further deeper cuts that were envisioned.

Mr. President, had there been a reason, we might well have had Secretary of State Baker bring back, as he promised, START II by September 1. By negotiating this and by agreeing to this START I Treaty, we do not guarantee progress toward START II, but quite the opposite. We, in fact, lay down the predicate that the deal is better the way it is cut today.

The last thing was that democracy exists, and if they will only contain themselves, if they, the Russians and the successor Republics, will only bind themselves to the conditions of START I, a later Darth Vader successor state would be equally bound.

Mr. President, nobody who has seen the history of arms control can possibly do anything but smile when they hear that. This country and our allies have never been willing to challenge violations. The discovery of violations has never been our problem. It is dealing with them that has been our problem. Even when we knew the radar at Krasnoyarsk to be a violation of the treaty we would not declare it so, and the only people who ever declared it a violation were the Russian Republic successors to the state that was in violation.

We will not, Mr. President, find ourselves with an evil-intended nation constrained by legally binding commitments that were done by a democracy in the name of a country that now no longer is democratic. I say again, Mr. President, that the obligation of the Senate is not to look at the intentions of the current leaders. I give them all grace and credit, and I pray daily, as do all Americans, for their success. But should they fail, Mr. President, what the Senate ought to concern itself with is what a successor state with different intentions could do to the American people.

I say to the Senate that we have not so carefully considered this treaty as to be able to say we are comfortable that Americans would be well protected by this even should the weak constraints and the weaseled wording be viewed as somehow or another satisfactory by the Senate in this day.

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

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. How much time remains on either side?

The ACTING PRESIDENT pro tempore. Fourteen minutes, four seconds. The Senator from Wyoming has 9 minutes 47 seconds.

Mr. PELL. Nine minutes for the opponents, 14 for the proponents?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. PELL. I suggest the absence of a quorum, the time to be equally divided.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. 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 ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask if Senator PELL will yield me such time as remains.

Mr. PELL. I yield such time as may be needed to the majority leader.

Mr. MITCHELL. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. MITCHELL. Mr. President, I am pleased that the Senate today is considering ratification of the Strategic Arms Reduction Treaty.

START is a benchmark agreement, one that marks the transition between cold war and post-cold-war relations with the former Soviet Union.

START's military significance has been overshadowed by the more far-reaching strategic reduction agreement subsequently concluded by the United States and Russia.

But START remains an important codification of the end of the cold war. It is the first agreement to actually reduce strategic nuclear weapons.

I hope and believe that the overwhelming majority of this body will advise and consent to this treaty. The unanimous endorsements of the Senate Foreign Relations Committee and the Select Committee on Intelligence, and the voice-voted endorsement of the Armed Services Committee are indicative of the broad support this treaty deserves.

Of course, START has a decade-long history.

It is clear now that the slow rate of progress resulted less from technical challenges presented by the treaty than from the overall state of political relations between the United States and the Soviet Union.

For the great improvements in relations that prompted the conclusion of START also led rapidly to a stunning follow-on strategic accord. The even deeper cuts subsequently negotiated in principle in what is known as the June joint understanding, or START II agreement, have eclipsed the significance of the START Treaty itself.

Yet START remains an important achievement in its own right.

Although complex counting rules mean that the actual warhead reductions will not approach the 50-percent goal initially envisioned for START, the reductions will still be significant.

We are now all familiar with the basic terms of the agreement: A 6,000 limit on accountable warheads coupled with a limit of 1,600 strategic nuclear delivery vehicles.

The subceilings on land- and sea-based missile warheads, heavy missile warheads, mobile missile warheads, and overall throw-weight are equally significant.

What is the net effect of all these provisions?

The United States will likely cut over 4,000 strategic warheads from its 1990 arsenal of about 13,000 such weapons. Russia will make even deeper reductions, cutting from the 1990 level of roughly 11,000 warheads to roughly between 6,000 and 7,000 warheads.

Moreover, Russia's heavy intercontinental ballistic missiles will be limited and Russian throw-weight will be significantly reduced.

These are significant achievements, and they represent a great security enhancement for the United States.

Given everything else that has occurred in the former Soviet Union and superpower relations, it is easy to forget how significant the conclusion of this treaty is. It is also valuable for reasons that were not initially foreseen.

When U.S. negotiators began discussing START, they had no idea that it would become the means by which we clarified strategic nuclear questions raised by the breakup of the Soviet Union.

But this is now a critical aspect of the process begun by START and culminating in the Lisbon protocol and the bilateral letters that were signed in May 1992.

In signing these agreements, Byelarus, Kazakhstan, and Ukraine committed themselves to implement START's provisions to join in eliminating weapons and providing access for verification inspectors. In fact, Kazakhstan has already ratified the treaty.

All three States have agreed to eliminate their nuclear arsenals by the end of the 7-year period in which the START provisions must be implemented.

Kazakhstan, Ukraine, and Byelarus also have agreed to join the Nuclear Non-Proliferation Treaty.

These related provisions combine to provide welcome safeguard for American security in the event of chaos or a return to totalitarian rule in those countries, or any other part of the former Soviet Union.

The conditions that the Foreign Relations Committee recommends to the resolution of ratification are extremely important in this regard.

The resolution of ratification reaffirms that these pledges by Ukraine, Byelarus, and Kazakhstan are legally binding. The resolution of ratification further requires the President to monitor the three nations' progress toward fulfilling these commitments and requires the President to consult with the Senate on further action in the event that these commitments are not fulfilled.

So, in addition to shrinking the United States-Russian nuclear balance, the START process has helped to resolve positively the new questions regarding the nuclear capabilities of other States of the former Soviet Union.

The end result of the START Treaty is to make the world more stable. In large part, it achieves this goal by including these new States in the arms control framework and by gaining their commitment to a nonnuclear future.

START also contributes to global security by reshaping those strategic forces that will remain.

By limiting both warheads and delivery vehicles, the treaty helps reduce the incentives to MIRV—to put more than one independently targetable warhead on a missile. Having fewer warheads per delivery vehicle reduces incentives to strike first and makes the strategic balance more stable.

Similarly, START focuses special attention on restraining those weapons most commonly considered destabilizing—MIRV'd and heavy land-based missiles. Controls on mobile land-based missiles is also an important contribution.

Moreover, the counting rules maximize each side's flexibility to deploy air-launched weapons, another boost for stability.

No one would argue that START is a panacea.

No one can or should argue that this agreement, or any single arms control agreement will, by itself, ensure peace.

Even as we move toward ratification of START, we look forward to receiving another more far-reaching strategic arms accord.

But each agreement is a step forward.

Each is a building block in the structure of lasting peace that we hope to create over time.

I am pleased that today we can take another step toward that end by providing our advice and consent to the START Treaty.

Mr. President, I close by commending President Bush and the members of his administration for their successful negotiation of this agreement.

I ask unanimous consent that the full text of a letter to me from Secretary of State Lawrence Eagleburger be printed in the RECORD.

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

DEPARTMENT OF STATE,
Washington, DC.

Hon. GEORGE J. MITCHELL,
Majority Leader,
U.S. Senate.

DEAR SENATOR MITCHELL: As the Senate takes the historic step of beginning its final

consideration of the START Treaty, I wanted to contact you personally to urge you to join with your colleagues in giving your advice and consent to ratification of this vital agreement. The history of the Cold War will not be over until START is ratified and has entered into force. Your actions today will culminate a decade of bi-partisan effort to move us to a safer, more secure, more stable world.

Thirteen months ago, the failed coup in the former Soviet Union signaled the death knell of seventy years of oppression and the beginning of a new era of freedom and democracy for nearly three hundred million people. In the months that followed, new independent states rose from the ashes of communist failure, and a new dawn of freedom and independence broke.

In this dramatically changed world, some have asked whether START is still important. The answer is an unqualified yes. Ratification of START remains crucial for the following reasons:

First, to encourage quick action by Ukraine, Belarus, and Kazakhstan to adhere to the Nuclear Non-Proliferation Treaty (NPT) as non-nuclear-weapon States Parties. The sooner we bring START into force, the sooner these states will be obligated to join the NPT and to begin eliminating nuclear weapons, including strategic offensive arms, from their territories.

Second, to ensure broad international support for the Nuclear Non-Proliferation Treaty. The non-nuclear states have traditionally regarded the continued pursuit of arms reductions as important to the success of the NPT. Failure to ratify START could be seen by some of them as a rejection of nuclear arms control, complicating our efforts to extend the NPT in 1995.

Third, to give us a window on the former Soviet Union. The START verification regime will increase openness and transparency during these times of turbulence.

Fourth, to enhance stability in the former Soviet Union. START resolves major nuclear weapons issues among the four largest and most heavily armed former Soviet Republics, removing these issues as a source of potential tension and conflict.

Fifth, to ensure that forces of the former Soviet Union are reduced when ours are. We are reducing our forces in recognition of the changed international situation. We want to be certain the states replacing the former Soviet Union are obligated to reduce as well. We need START to lock-in those reductions.

Sixth, to establish a foundation for deeper reductions. The June 17 Summit agreement to further reduce strategic forces depends on START and assumes START verification provisions will be in place. while we are moving to codify that agreement, we should not delay START ratification.

Finally, to hedge against a failure of democracy in the former Soviet Union. While we all are hopeful, we cannot be certain that democracy will prevail. If new, unfriendly regimes come to power, we want those regimes to be legally obligated to observe START limits and verification provisions.

Some of your colleagues, while recognizing the ultimate importance of START, have asked, "Why now?" In my view, the answer is clear. We want START now because we want Belarus, Russia, and Ukraine to approve START, as Kazsakhstan has already done; delay by the United States will not encourage fast action on their part. We want to lock Belarus, Kazakhstan and Ukraine into the Non-Proliferation Treaty as non-nuclear states as soon as possible. The U.S. and Russia are now building on the accomplishments of START and taking additional steps toward safety and stability. And it is now that the Senate must act to help bring about this new and safer world.

We stand at a crossroads of history. The collapse of communism, the demise of the Soviet Union, and the end of the cold war offer the prospect of a world in which the nuclear nightmare is only a dim memory. Senate action to codify the end of the era of confrontation, along with the new steps we are taking to enhance stability, will allow our children and grandchildren to grow up free from the fear of a nuclear Armageddon. On behalf of the President and the Administration, I urge you to fulfill our commitment to history and our obligation to posterity by ratifying START.

Sincerely,

LAWRENCE S. EAGLEBURGER,
Acting Secretary.

Mr. MITCHELL. Mr. President, I conclude by reading the last paragraph of Secretary Eagleburger's letter, which is think is both eloquent and relevant to the vote about to occur.

Secretary Eagleburger wrote:

We stand at a crossroads of history. The collapse of communism, the demise of the Soviet Union, and the end of the cold war offer the prospect of a world in which the nuclear nightmare is only a dim memory. Senate action to codify the end of the era of confrontation, along with the new steps we are taking to enhance stability, will allow our children and grandchildren to grow up free from the fear of a nuclear Armageddon. On behalf of the President and the Administration, I urge you to fulfill our commitment to history and our obligation to posterity by ratifying START.

Mr. President, we should heed the words of President Bush and Secretary of State Eagleburger. We should vote today to ratify START.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). All time of the proponents has expired.

Mr. WALLOP. How much time remains for the opponents, Mr. President?

The PRESIDING OFFICER. The Senator from Wyoming has 5 minutes, 40 seconds.

Mr. WALLOP. Mr. President, let me begin by saying that I agree with the majority leader that the START Treaty has a decade-long history. But what is not stated in there is that from within that decade-long history was the receding of the United States on very, very basic principal points which we had sought to achieve all during that debate and negotiations.

The treaty represents many compromises that we accepted because the Gorbachev regime was shaky, and we were heading toward a summit. And the compromises rained down in the last few days. For example, we had always sought a mobilized ICBM ban and onsite inspection of production facilities. We have neither of those in this treaty. In fact, we admit that the only people in the world who will have mobilized ICBM's are the Soviets, and we have had the Senate Intelligence Committee tell us—and anybody with a brain could recognize that even in Iraq, in Desert Storm, in the most perfect conditions in the world, we never were able to locate mobile missiles on the ground.

Mr. President, we have a more cooperative partner, I agree with that. I wonder if since we do, should we not use the opportunity to renegotiate as President's Yeltsin and Bush told us, and as the then Secretary of State, Mr. Baker, told us we could.

During yesterday's debate, we heard and the majority leader spoke to the signature protocols and the bilateral letters. We also heard bilateral letters only have standing when they suit the position taken by the Senate and the administration. When they do not suit it, they do not have standing.

There is a long interrogatory that I inserted in the RECORD yesterday between the Senator from Maryland [Mr. SARBANES], and the Secretary of State, and it is revealing to notice that even the Senator from Maryland did not believe that the Secretary of State had it all right.

It is simply not the truth, Mr. President, to say that this treaty provides a limit on warheads. It is not the truth. The truth is that it provides a limit on warheads on deployed missiles. But there are no limits on nondeployed missiles. This treaty does not call for the destruction of anything but launchers, and launchers are only one of the means, the convenient means of setting in motion the weapons of destruction that threaten America.

We have undercounted the warheads in here, simply by saying, for example, on the SS-18 it now has only three, when the Soviets themselves said earlier that it had seven. The last agreement was for three.

We only verify assembly points, Mr. President, not the points of production. A long and specific intrusion of the intrusive verification that was sought by the United States we abandoned in advance of the summit.

Mr. President, the majority leader read from Acting Secretary Lawrence Eagleburger's eloquent letter that we will now have Americans grow up free from the fear of nuclear weapons.

If they grow up free from the fear of nuclear weapons, Mr. President, under the terms of this treaty, it is only because they believe what they have been told and not because they know what the case is on the ground, because, if they knew, the SS-18, though reduced, is more powerful than the one that replaced it, it does not require destroying of the old SS-18, so, in fact, the fleet could be more than doubled from what it currently is. The follow-on missile to the SS-25, the so-called Fat Boy, is a violation while we speak and are being asked to ratify this treaty—is in exist-

ence a violation of the agreement right today.

Mr. President, furthermore, Soviet military spending next year will be greater than it was this year. I believe that we are on the threshold of a new world and if we are on that threshold this treaty is irrelevant and if we are not on the threshold of a new world this treaty is inadequate.

The way to find out is not to bind ourselves in response to things that might be coming down the road but to work with the new democracies over there in seeing to it that the old reasons for confrontation have vanished.

But an arms control agreement that says just for the nones, you be my enemy and I will be your enemy and we will agree to this, if we were not to do that, Mr. President, if we said just for the nones we will take care of our security as we see the need for it and we will help you and your country grow, then the world of which the Acting Secretary spoke might, in fact, be the case but it is not the truth to say it under this treaty.

Mr. President, I yield back the remainder of my time.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Executive Calendar Order No. 45 (Treaty Doc. No. 102-20), the Treaty with the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (The START Treaty), and Executive Order No. 46 (Treaty Doc. 102-32), a Protocol to the START Treaty:

George Mitchell, Claiborne Pell, Barbara A. Mikulski, Joe Biden, Dale Bumpers, Patrick Leahy, Richard Shelby, Brock Adams, Alan Cranston, Tom Harkin, Bill Bradley, Herb Kohl, Paul Sarbanes, David Pryor, Frank R. Lautenberg, Paul Wellstone.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the call of the roll pursuant to rule XXII has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on Executive Calendar Nos. 45 and 46, the START Treaty and protocol thereto, shall be brought to a close. The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Tennessee [Mr. GORE], and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Texas [Mr. GRAMM], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

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

The yeas and nays resulted—yeas 87, nays 6, as follows:

[Rollcall Vote No. 246 Ex.]

YEAS—87

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

NAYS—6

Craig	Smith	Wallop
Helms	Symms	Warner

NOT VOTING—7

Bond	Gramm	Specter
Breaux	Kasten	
Gore	Leahy	

The PRESIDING OFFICER. On this vote the yeas are 87, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START TREATY)—TREATY DOC. NO. 102-20

PROTOCOL TO THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—TREATY DOC. NO. 102-32

The Senate continued with the consideration of the treaty and the protocol.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. Mr. President, what is before the Senate at this time?

The PRESIDING OFFICER. The Senate is considering the START Treaty and its protocol under cloture.

Mr. PELL. I thank the Chair.

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

Mr. WALLOP. Mr. President, could I direct an inquiry to the majority leader? Mr. President, I ask we have order in the Senate.

Mr. President, for a variety of reasons, several of which I think are very important—one Jewish Senator has suggested to me that he feels required to be in synagogue, at least through lunch—would the majority leader find it remiss, if I were to lay down an amendment now, to try not to come to a vote until after the weekly luncheons?

Mr. MITCHELL. Mr. President, I would like to see if there is any possibility of an agreement which would permit the Senator to offer whatever amendments he wanted to offer and set out a schedule for debating and voting on those amendments and bringing the matter finally to a conclusion at a time that is agreeable to all.

I wonder, last week I proposed such a schedule to the Senator from Wyoming on which there was no possibility of agreement. I wonder now if that is possible to consider, including the proposal the Senator has just presented?

Mr. WALLOP. Mr. President, I will confirm that I am willing to work with the leader on achieving such a thing. I do not feel capable of arguing it through right here on the floor at this moment in time but will try to come to some understanding of a time schedule for Senators and others. I really was directing this to lunch because I do feel sympathy toward those Jewish Senators who felt constrained to be in their synagogues during this holy day through the luncheon period and that is really the first part of it.

I will be happy to go to a quorum call now and try to talk with some people on our side and see if we can come to some procedure to conclude this. If we can, all for the good; if we cannot, we are prepared to go ahead. Will the majority leader object to my suggesting the absence of a quorum?

Mr. MITCHELL. Not at all, Mr. President. Is my understanding correct that time will be running against the 30 hours during a quorum call?

The PRESIDING OFFICER. That is correct.

Mr. WALLOP. Mr. President, I have a parliamentary inquiry.

Does the rule of the Senate that requires the treaty to lay over a day before voting pertain in cloture?

The PRESIDING OFFICER. There is no precedent directly on that point.

Mr. WALLOP. Mr. President, I will say that I think the Senator from Wyoming now has the record for inquiries to the Chair on parliamentary rulings that have no precedent and no basis for decision. We will try to work on that as well.

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.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have been advised through staff that Senator WALLOP has requested that the Senate not now proceed to consideration of the treaty and possible amendments thereto but rather either recess or go into morning business with the understanding that the time would count against the 30 hours under the cloture rule.

While that is not my preference, that is, I would prefer that we immediately begin the debate and discussion and proceed to consideration of the treaty and amendments, I understand and am prepared to accommodate the request.

MORNING BUSINESS

Mr. MITCHELL. Therefore, I now ask unanimous consent that there be a period for morning business not to extend beyond 12:30 p.m. with the time to count against the 30 hours under the cloture rule as if in legislative session.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. LUGAR. Mr. President, reserving the right to object, and I will not object, I pose an inquiry to the distinguished majority leader. When the Senate recesses for the luncheons of the parties the time against the 30-hour time limit continues to run during those luncheons. Is that the correct understanding?

Mr. MITCHELL. That is correct, pursuant to an order entered yesterday.

Mr. LUGAR. I thank the leader.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. Accordingly, Mr. President, there will now be a period for morning business to extend not beyond 12:30 p.m. with the time between now and then to run against the 30 hours under the cloture rule from 12:30 p.m., or if the morning business period terminates prior to then, from that time until 2:15 p.m. there will be a recess for purposes of the respective party conferences and that time will run against the 30 hours as well.

I now suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. Mr. President, I asked unanimous consent to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. RIEGLE. Very good.

CONSUMER CONFIDENCE IN ECONOMY FALLS AGAIN

Mr. RIEGLE. Mr. President, I want to share with my colleagues an item that has just come across the AP Wire Service and is in the current news this morning.

The headline on the AP story is: "Consumer Confidence in Economy Falls Again." And it reads as follows—I am going to read most of the AP release verbatim:

NEW YORK.—Consumer confidence in the economy fell in September for the third straight month, said a widely watched survey released today.

The Conference Board, a private business research group, said Americans were more pessimistic about the future of the economy now than before each of the five previous presidential elections.

The group's consumer confidence index fell to 56.4 this month from 59.0 in August. The index registered 72.6 in June when it began falling. In September 1991, the index measured 72.9.

"The nation's sluggish economy and weak job market are continuing to dampen consumer spirits," said Fabian Linden, executive director of the Conference Board's consumer research group.

The survey is conducted by National Family Opinion Inc. of Greenwich, Conn., which questions 5,000 households nationwide monthly on subjects ranging from local economic conditions to buying plans for homes and appliances.

The index is monitored on Wall Street and in Washington as an economic barometer because consumer spending is critical to the economy's health.

Jumping down it says here—and I am continuing to quote:

Nearly 46 percent of the survey's participants said that current business conditions are bad, while only 11 percent say they are good. Forty-six percent of the respondents said jobs are difficult to get, while 6 percent said jobs were "plentiful."

I do not know who that 6 percent is, I might say parenthetically.

The figures were similar to the previous month.

But consumers are less optimistic about the future than in August, the survey showed. More people fear business conditions will worsen in the next six months and there is greater concern about job availability, the Conference Board said.

And that is the end of the item on the ticker tape.

Now what does this say to us, with that index dropping that sharply? In just one month, it has fallen from a rating of 59 down to 56. That is a very sharp drop in this index. And, of course, it shows it is going the wrong way; the consumer confidence is dropping.

Why is that happening? It is happening because we do not have an economic strategy in place that is really helping the American economy.

Unfortunately, our Government, for the last few years, has had an economic policy for every country in the world except our own.

So the Bush administration has had an economic plan for Kuwait, an economic plan for Communist China, an economic plan for the old Soviet Union, an economic plan for Mexico—the so-called fast-track free trade agreement, which is a jobs program for Mexico—but really nothing to deal effectively with the economic problems of this country.

And that is why this recession continues to go on and on and on, and why, as we learn right now from this item out of this morning's news off the Associated Press wire service, that consumer confidence has dropped again.

That will hurt the economy because as consumers become more pessimistic about the future, as this data indicates, they are going to spend even less money. They are going to draw back. And that will help take the economy down even further.

Why are they doing that? They are doing that because there is a tremendous amount of unemployment in the country. It is very difficult to find a job today, no matter what your skill level or training or preparation. For example, in California there have been a lot of defense industry cutbacks, a lot of people have lost their jobs who have advanced degrees, have great technical expertise. We have people now with Ph.D.'s in all kinds of fields who cannot find work.

We also find other workers who have spent maybe 10 or 20 years working in a skilled trade in the manufacturing industry who have lost their jobs. They are not finding replacement work.

Just the other day there was an announcement that the last U.S. typewriter factory in upstate New York, a Smith-Corona plant, was going to close. They are the victim of trade cheating by Japan about which nothing has been done. And they now feel they have to close that plant, this company does, and move their production down to Mexico to take advantage of the low wage rates in Mexico just in order to enable the company to survive.

In fact we had the CEO of that company in the other day for a hearing and

he is very angry about the fact that he has to close an American plant and go down to Mexico to take advantage of low-cost labor just to be able to salvage his company. He has been victimized by trade cheating by Japanese companies who have been flooding the market with below-cost products in the United States and compelling that kind of change in that company.

The absence of a trade policy has hurt us in other areas. We have now had a cumulative trade deficit with the rest of the world in merchandise trade since 1980 of nearly $1.2 trillion; a half a trillion dollars by the end of this year will be with one country, namely Japan. They will have a trade surplus with us again this year of about $45 billion. So they are sucking the jobs and the economic strength out of America and taking it over to Japan. That makes them stronger. It makes us weaker.

It is ironic that just the other day the Japanese indicated that they want to stimulate their economy even more. So they have just announced a big investment program in infrastructure. They are going to invest—from memory I think the figure is $80 billion over a period of time—to strengthen their infrastructure.

Their infrastructure is already very modern, but they are going to make it even more modern by investing another $80 billion. That is something we need to do in America but we are not doing it right now. And in fact Japan is taking money that they have gotten from us with this trade surplus to pay for their infrastructure investment.

So here they are, about to improve their infrastructure with our money. And we do not have enough money left here to improve our own infrastructure. It is an incredible turn of events. And it is what happens when you have an administration in power that does not have an economic strategy for America. It does not have a trade strategy that insists on fair trading rules; it does not have an economic growth strategy; it does not have an infrastructure strategy. Now we have all of this unemployment in the country, and the unemployment is getting worse.

We are going to get the new unemployment figures. They will be out this Friday. My expectation is we will probably see an increase, again, in the unemployment rate, meaning more people will be out of work and even fewer will have jobs out across the country. And that is what is actually happening where people live. That is why they are reflecting this lower level of confidence in the economic future, because they see what is happening where they live and where they work. They see what is happening to their families and in the neighborhoods where they live, in the communities in which they live. And they know we are in serious economic trouble.

That is why we need to make a change in economic direction. We have to develop a new economic growth strategy that can create jobs in America and get people back to work. The Washington Post today and over the last 2 days has been running the first parts of a five-part series on the Federal budget deficit. It is a very important series and I commend them for doing it. The problem now is that the economy is so weak and unemployment is so high, that the faltering economy is increasing the size of the Federal deficit. In fact, we cannot reduce the deficit meaningfully until we get this economy going faster, and get more people back to work. So we have to have an economic recovery strategy that can kick in and start to create jobs in America.

How many jobs do we need? If you use an estimate of the amount of jobs created in the last several recoveries through other administrations, Democrat and Republican, you can see from the growth rates achieved after those recessions, in applying that in our situation, that over the next 4 years we are going to have to create about 12 million jobs in the American economy. Maybe the figure is higher than that but I think that is a conservative estimate; 12 million new jobs are needed.

Yet when we look around we are seeing jobs disappearing, jobs leaving the country; jobs going to Mexico, jobs going to Thailand, jobs going to Communist China. We see very little jobs creation in America.

Not only are unemployed engineers, unemployed Ph.D's in computer science, unemployed skilled-trades people not finding work—young people who have come through college at great sacrifice by their families and themselves to earn an education are coming out of college unable to find work. They cannot find a job. They might look for 6 months, 12 months, a year, 2 years. A lot of those college graduates are having to go back and live with their parents because they cannot find a job in the job market even though they have prepared themselves for that kind of work. In many cases they have come out with outstanding academic performance and good, solid résumés, and yet there are no jobs to be had. That is the problem. We are going to have to create in our economy, principally in the private sector of our economy, enormous job growth. And that means a new economic strategy. I think that means a new President is needed. Because the President that we have had has not seen this need, has not responded to it, and I do not think will respond to it, quite frankly.

I think their view is to sort of let nature take its course and in the end somehow it will all work out. That is a failed strategy and that is what this consumer confidence index information today tells us.

Our colleague from South Carolina, Senator HOLLINGS, is quoted in the Wall Street Journal today, I think very importantly on this very subject, because I think he understands the economy and the problems in the economy as well as anyone in the Congress. He is quoted today in the Wall Street Journal to the following effect. He is talking about how the American Government has had a plan to help every other country but no plan to really pay attention and deal with the economic problems building up in America. This is Senator HOLLINGS today quoted as saying:

> We got Americans in the Corps of Engineers rebuilding the emir's palace in Kuwait. * * * Come on, they've got an American plan to put up—on fast-track—whatever jobs are left to go down to Mexico. Why * * * can't we get an American plan for America?

That is Senator HOLLINGS talking and he is exactly right. Here we are over in Kuwait trying to help them with their economic problems, rebuilding the palace over there. We are all around the world. We have programs everywhere. Do you see a program here in America? I would like to see a program to help this country. We need jobs in Michigan. I have over 400,000 people in Michigan right now that we know by name who are out of work and need jobs now to feed their families, to provide for themselves. And there is no work to be had.

The thing that bothers me is that I think this administration which has been in charge of economic policy is detached from the realities of what is happening out there at the grassroots, where people live. There is a detachment. You have had an elitist administration that is almost as if it is up on a different planet.

I think, unfortunately, that has been due to the fact that so many people in the area of economic policy development around the President live in such favorable economic circumstances themselves, are so well off—many with inherited family fortunes, and they have trust fund income rolling in every month—they do not feel the economic pinch. When you talk about the economic problems, they do not really know what you are talking about because it is not happening to them. They do not see it. It is not happening to their friends. Frankly I do not think it is happening to their children. When they go out into the job market, I suspect that because of the friendships and other relationships, that those sons and daughters of those policymakers are finding jobs. They are part of the 6 percent here who say that they do not see a problem in the job market, because they have more access to opportunity than everybody else out there looking for work.

And so I think as a result of that, the administration is disconnected from the realities of what is actually hap-

pening out in the economy and what is really happening in people's lives. That is why there is a political revolt underway in the country right now, and it is over this economic sickness, this underperformance of our economy, and the lack of an economic plan to make America stronger and to make sure that we have enough jobs to go around—enough good jobs to go around. I am not talking about jobs flipping hamburgers, and I do not demean that work, but we have to have a lot of jobs that pay middle-class incomes and have health care protection and pension benefits associated with them. That is what built the middle class of this country over the long history of our country.

So when we talk about making sure there are more jobs, we have to make sure they are jobs that are high skill, high wage that can support a family and provide, as I say, health care protection and pension program that can provide income after a person retires at the end of a long work career.

So these are basic things. What is so ironic, if you look at other countries, is that Japan has a plan like that. It is working very effectively. Germany has a plan like that. It is working very effectively. The European countries have a plan like that. It is working quite effectively. The only big industrial nation remaining that does not have a competent, sensible, economic plan for itself is the United States.

We have been relying on this trickle-down theory with the tax cuts where you send all the money up to the top of the income scale and hope that somehow or another some of it will trickle down and create jobs along the way and keep the economy going.

That strategy is a failure. It has not worked. That is why, as I say, this confidence number has just dropped again in the latest month. Trickle down does not work. You have to do it the other way around. You have to invest in the core elements of your economy. You have to invest in your people, your job base, your technology. You have to invest in the things which create economic growth and create jobs. We have not done that.

We took this wrong path with supply-side economics and trickle-down economics, and it has proven to be a dead end street. Now we are in deep trouble. We have huge structural Federal budget deficits, we have huge structural trade deficits, and we have huge structural investment deficits where we are not investing in our businesses, in job creation, our infrastructure, our educational system, and in our people.

Even in the health care area, where we spend a fortune on health care, we have some 40 million people in America today without a penny of health care coverage. I have been coming to the floor each week to give a case example of a family or a person in my home State of Michigan who is caught in this health care crisis. I will be doing that again this week.

But something even as basic as health care protection is missing. In my home State of Michigan, we have 1 million people this very day without a penny of health care protection and about 400,000 of them are children. That is just not right. Other advanced countries are not operating that way. They have universal health insurance plans of one kind or another where they protect the health of their people.

Why? Because, first of all, it is the humane and decent thing to do. But, second, it is good economics. Your people are your most valuable asset, and you want your people well and healthy so they can work, so they can produce, so they can support themselves, so they contribute to the country.

If you have somebody you can keep from getting sick, that is a good investment, to keep that person from becoming ill and unable to function properly. And the same thing when someone gets sick, to go ahead and move in with the medical resources needed to help that person overcome the health problem, to get well, so they can get back in action and provide for themselves and support the country.

It is so basic. Every other country has figured it out. The only place so far that has not figured it out and done it in a comprehensive way is our country. That is another reason why we need a new President. We need a President who is for a comprehensive national health insurance plan.

I am supporting Governor Clinton because he is in favor of that. He favors a plan that is almost precisely the same as the plan I have developed with Senator MITCHELL, Senator KENNEDY, and Senator ROCKEFELLER, what we call HealthAmerica, which would control health care costs and provide coverage across the country so everyone would have a chance to have health insurance protection. It is something we need. It is very fundamental.

But we have to engineer for ourselves a new economic growth plan for America. We do not have a minute to lose. If Governor Clinton becomes President Clinton, the first order of business for him is going to be to develop an economic surge plan that can create more real jobs in the private sector of our economy.

I think there also has to be an infrastructure investment component, and that will involve some public investments with much of the work done by private sector contractors. But the bulk of the 12 million or so jobs that are going to have to be created over the next 12 years are going to have to come out of the private sector of our economy.

I hope we will immediately initiate a Team America concept where business and Government and labor sit down together and think and work in a unified way, because if we are going to match the strides and the gains being made by other countries around the world, then we must stop fighting among ourselves and distracting ourselves and diverting our energies on issues that are far less important. We have to get the economic engine of America rebuilt and functioning at a very high level of efficiency.

We need more jobs in this country. We have had incomes falling over the last 3 years. We have had unemployment rising. We have to reverse those trends. And we can do it. We have the capacity to do it. But we are going to have to concentrate on how we craft a new economic growth strategy for America.

There will be several components for that plan. I think an investment in infrastructure is one component that has been talked about. I also think we are going to have to put into our tax policy an explicit economic growth strategy which can stimulate job creation in those areas of our economy where we really want to be strong in the future. And that is everything from the incentives needed to help small business flourish along the lines of the things Senator BUMPERS has talked about, right on up the line to what we do with major core strategic elements of our national economy, our industrial base, our high-technology industry areas, to make sure they have the capital they need, they have the technological advancement they need, that they are moving, and that they are moving as fast or faster than any other country and creating jobs in the process.

I also think we are going to need to have an aggressive trade strategy. We are not going to be able to tolerate the trade cheating by Japan. Japan through the end of this year, since 1980, will have taken over $500 billion out of the United States with their cumulative trade surplus—much of it due to trade cheating; they keep their home market largely closed to our goods; they flood their surplus production into the United States, much of it below cost. They set up a ring of Japanese companies in America, and then they use what is called a keiretsu arrangement, to trade with one another to maintain a kind of national monopoly within our country and to choke off the American firms in those fields in America. We have seen that, particularly in the auto parts industry, and also in the auto plants they have established in this country.

That has to be confronted, and it has to be confronted aggressively. Unfortunately, President Bush went over to Japan a few months ago to talk about this problem, about this huge trade deficit that is hurting us and helping Japan, he went over there to ask them to do some things to reduce this trade deficit, and do you know what has hap-

pened since? The trade deficit is worse. Since that trip the President made, which received a lot of attention because he was stricken with an illness when he was there and put some additional attention on that trip—he was there, so he said, to get the Japanese to start to play fair in the trade area and bring down the trade deficit. Lo and behold, several months later the trade deficit is worse and it has gone higher. It has gone higher since the trip.

It would probably have been better if he had not made the trip, because the problems have gotten worse since that time. That is another reason why we need a new President, who is willing to insist on fair trading rules and not just buy this notion that anything goes, even if other countries are using a double standard in a way that is helping them and hurting us.

So we are going to need a much more aggressive trade strategy. Part of it, by the way, in my view, is also going to have to deal with this fast-track proposal to go into a common market with Mexico. Mexico is a Third World economy. Their wages are in the area of $1 an hour down there with very few workplace protections and environmental standards.

In the auto industry, we have seen the big three auto companies in America locate over 70 plants in Mexico. It is obvious that if a free-trade agreement goes into place, many more plants will close in America and move to Mexico to take advantage of the low wages down there. That becomes a jobs program for Mexico. It is a jobs program for Mexico.

We need a jobs program for America. We cannot afford to ship anymore jobs out of the United States to Mexico, to Thailand, to Kuwait, to Communist China, to Japan, or any other place. In fact, it is time we brought some of those jobs back to America, because our people need them. Our people need the work. They are capable of doing the work if they are in a system where the trading rules are fair and where the trading rules are enforced. But we often find that the trading rules are not enforced.

We had a case just the other day about an agreement where cars built in Canada have to have a certain percentage of content that actually is Canadian or United States content. Lo and behold, we found out that one foreign company—in this case Honda—was cheating. They were saying that the content level was higher than it really was. And so our Customs officials did an investigation, and they found that Honda was cheating on this domestic content requirement. So our Customs officials made that public, and moved against that violation of our trade laws, to put a stop to it and to require them to have a higher level of domestic content, as we call it, which, of course, means more jobs here in this country and in our home market.

Lo and behold, Honda then went out and hired one of these for-hire people here in Washington that charge the big fees that used to work in the Treasury Department. And that person used their access to the administration's Treasury Department to come in and complain about this and actually get the Treasury Department to call over to the Customs Service that had caught this trade violation, this cheating by Honda. And the Treasury Department told the Customs Service to send Honda a letter of apology for the fact that we caught them cheating. I mean, that is how ridiculous this has become. It is an absolute travesty.

So we do not have an effective trade policy today, and we are being killed in the trade area, and that is where a lot of jobs are disappearing. If this United States-Mexico Free-Trade Agreement goes into place, we are going to see hundreds of thousands of jobs going south of the border.

It is so interesting that a lot of the editorial opinion that I read in various newspapers is in favor of the United States-Mexico Free-Trade Agreement. I have talked with some of the editorial writers about it, and they have this very lofty view that we ought to have a free-trade agreement with Mexico. I can tell you as I stand here, because I have dealt with newspapers and editorial board people on other issues where their own self interest was at stake, where their attitude is completely different.

I know as I stand here that if all of the editorial writers in America were facing a job threat by editorial writers in Mexico, who could write the editorials for the papers here for 50 cents an hour or 75 cents an hour, and wipe out the jobs of the editorial writers in America, the editorial writers of America would be on the very next airplane to Washington. They would be here ripping the doors off of this Chamber and ripping the doors off of all of our offices, because they would not want to lose their jobs. They would be very aggressive in defending their jobs.

But, right now, it is an abstraction because they are not giving away their jobs. They are giving away the jobs of somebody else that lives in their town. Eventually, that is a self-defeating strategy, because in the end, as our economy gets sicker and sicker, even the newspapers get into financial trouble; and there are going to be fewer editorial writers in this country, if we find ourselves with a more and more depleted national economy. So later on down the line, many of them will in fact lose their jobs, although they do not see that today, because they do not face that prospect in the immediate sense. It is unfortunate that they are so shortsighted and, in a sense, I think narrowly self-interested on this issue.

We are talking about America's economic future, and we are talking about being able to have enough jobs at the high-skill, high-wage level to employ our people and meet all of our national responsibilities, those in the public sector and those in the private sector, even in the area of meeting the social security payments of the future.

Right now, our Government, while we are taking in all of the Social Security contributions from today's work force and we are supposed to be saving that money and investing it at a return so that that money, plus the earnings, will be available in the future to pay future claims on Social Security, that is not what we are doing with the money. The money over at the Social Security system right now is being borrowed by the Government and spent willy-nilly on the day-in and day-out activities of the Government today in order to make the Federal budget deficit look smaller.

We are replacing the money at the Social Security Administration with a bunch of IOU's that we are putting in the cash drawer over at the Social Security Administration. So instead of saving the money and investing it in earning assets and productive assets over a period of time, we are spending the money. The only way of being able to repay that money in the future is to have a big work force in America that is earning high wages at high-skilled jobs that can face off effectively in this global economy with the other nations of the world. But all of the data we can see shows just the reverse is happening.

We are losing jobs, high-skilled jobs; we are losing out to other countries that have more effective strategies than we do. So, in the future, if we stay on this track, we are not going to have enough of the good jobs and enough of the income base and people paying into Social Security to be able to turn the money around and pay the benefits out of Social Security to the retirees who, at that future time, are going to need that income that they have been depending upon, that they contributed to help established. The income will not be there in sufficient amounts, because we are not going to have the job base of sufficient size and strength and value, in terms of the work being done, to actually generate the Social Security tax revenues and income to finance that system.

It is a huge problem. It is a huge problem, and nobody wants to talk about it, because if you talk about it, and you really wake people up to the dimension of the problem, then we are going to have to do something about it. And the people today in charge of the executive branch of Government do not want to do anything about the economy, because they think the strategy that they are following is working.

They think if you stay with trickle down economics long enough, it will

eventually work. It will eventually work all right. It will work us right into a depression. That is where it will take us, if we maintain this nonsense any longer, and that is what this conference board survey data tells us. The American people have figured it out. They know we are on the wrong track. And they know we have to get off this track while we still have the time and the strength to do it.

So we need a new economic growth strategy. It is going to be a very ambitious and aggressive strategy.

If Bill Clinton becomes President Clinton, I hope he will call in the major business leaders of our country, the major labor leaders of our country, the other people who are some of the experts that we can call on for advice in economic policy and craft a Team America plan, an economic strategy that can give us the prospect of having these 12 million or so additional jobs created out over the next 4-year period of time and get us out of this quagmire and get us going again so people can have some faith and confidence in their economic future.

Our young people and people of all ages need to understand that this country is paying attention to their prospects and to their needs and that we are making sure that we are nourishing the job growth and job development base in America, that we are going to see to it that there are enough good jobs to go around so that people who are trained and out there and trying to find work will be able to find work.

There is nothing worse that I know of today in the kind of discussion we are having than to be a man or a woman needing to work, needing to have income to support yourself and to support your family and to find that no one wants you or no one will employ you and that there is no job to be had. And, after months of unemployment that so many millions of people have gone through, with the exhaustion of unemployment benefits if you are entitled to those and your children have needs that have to be met and you have to put food on the table for your family, and you do not have the income to do it. People become desperate and people are increasingly desperate in those situations across the country.

I saw one of the most extreme examples the other night on national television. One of the networks was interviewing two young men who are veterans of the Desert Storm military operation just over 1 year ago, and both of these young men wore the uniform of America, went over to that war effort, put their lives on the line to carry out the mission of their country, did it with great distinction, came back, received the parades at the time that were deserved. But now months later, these two young men are unemployed, homeless, living in cardboard boxes here in our Nation's Capital.

What are we saying to them and to others like them? Yes, you meant something to us a year or a year and a half ago when we wanted you to put on the uniform of this country and go over into a war effort and put your life on the line, but now a few months later you do not matter anymore. You do not count anymore, and we are just going to forget about you and you can just make do the best you can.

Is that what we want to say to our people? Is that what America in 1992 is really all about?

These two veterans were very bitter when they were interviewed on that TV show, and they have a right to be bitter and I am bitter about it. And that is not an isolated example.

In fact, a very substantial part of the huge group of unemployed people in this country today and the homeless people are veterans—are veterans—veterans of various wars. They gave what they were asked to give to the country and now the country, in effect, has turned its back on them.

That is not right. I mean, that is just one of the things that is just greviously wrong with this country today and where our whole value system somehow got turned upside down during, I think, the 1980's.

Trickle-down economics is sort of a classic illustration of it. It is a failed strategy, it is a selfish strategy, and it is hurting America every single day.

For those two veterans, that I just cited, and many of the people who have been seen on national television when they were interviewed, there is nothing trickling down to them, nothing trickling down to them. They are forgotten and they are just out there having to fend for themselves the best they can. We can change that.

And that is why we have a government in this country, not to be passive and disinterested, incompetent, and uncaring. We have a government to deal with these kinds of challenges that the natural order of things does not take care of and, if the private sector is not functioning in a way to create enough jobs to provide for our people, then the Government has to come and work in partnership with the private sector to see that there are enough jobs to go around.

If the Japanese Government thinks it is important for their people to be employed, as it is, why shouldn't our Government be just as smart and just as committed to our people? It should be. It should be. It is not today. It has not been the last 4 years. We can do something about this on November 3.

That is the only way these confidence numbers are going to start to change. We had here a drop just in one month, according to Conference Board data, from a rating of 59, which is a very low rating to start with, in 1 month that dropped down to 56.4 in terms of consumer confidence looking at things today and looking ahead. We are going the wrong way. We are on the wrong economic track.

We can do better. We have to get off that track, but we are going to need new leadership to do it. We have to take a fresh look at these problems and we cannot be trapped by the failed policies and hubris of the crowd that has produced this problem. They have to be removed, some new people have to be brought in, and we have to think our way through and craft an aggressive new economic growth strategy for America. That is what the country must have. We are capable of doing it. It is the most important thing facing our Nation today, and it is time we get on with it.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. Mr. President, shortly, there is need for a parliamentary step here, and I am prepared to be involved in that.

FAMILY VALUES

Mr. RIEGLE. Mr. President, I want to add one other thought I had while we were waiting here on a quorum call and the time is available to us. In the course of the remarks I made a moment ago, I want to just add this thought.

There has been a lot of talk in the last few months about family values. And there was a lot of political talk about family values, particularly at the national convention of the other party.

I must say, when I look around my State and at all the things I see in this country, family values sort of start with being able to have a job and being able to support yourself and support your family. It means being able to feed your children. It means being able to afford decent housing, hopefully in a safe neighborhood. It means having access to health care and being able to afford health care.

I shared with the Senate just a few days ago the case of a family up in northern Michigan that is about to lose their health care because they cannot afford to continue it because it is so expensive and they do not have the income.

And family values means, in addition to the protection of the health of family members, having some kind of a secure retirement in old age. It is hard to be old. It is hard to be old in America if you do not have the wherewithal you need to see you through that part of your life.

So, it does not mean anything to talk about family values if our economy is functioning in a way that is wrecking families, hurting families, damaging families, damaging family values.

I think we had a family values issue here the other day on the parental leave bill.

You know, those of us that have young children and have gone through the birth of a child not all that long ago—I have an 8-month-old, my wife and I do—know about this. When an infant is born, it is very important, I think, for everybody's sake and for the sake of family values that that child have the chance to have a parent be there giving the care, at least for a period of time.

So we had this legislation providing for unpaid leave. It did not affect small companies with a handful of employees. We had it come in above that level.

But it would say that in a case where there was a newly born child or a health emergency or maybe an elderly parent that was in an extreme situation and needed help, that a person could have unpaid leave for a period of time to go and care for that family member and try to get through that situation. Now that is family values. There is probably not a more clear-cut example of family values than that.

And I think we want to foster that. We want to say to a parent or to a child, if you have a family member in a situation that needs special care, special attention and there is really no one else that can provide that, that you should have the chance to have a leave from your job—not that you are paid where while you are gone; it would be nice if we could pay the person, too—but to have an unpaid leave to go and get through that situation so that the person needing the care gets the care they need. Now what am I missing? Why is that not——

Mr. SIMPSON. Will the Senator yield for a question?

Mr. RIEGLE. I will in a minute. Yes, I will be happy to.

Why is it that that is not sort of right at the heart of the family values—if we are going to use that phrase and sort of take it out into the arena and talk about family values—why is not the care of a family member who has a special need sort of right at the top of the list? Why would that not be almost the first thing that we would do if we were going to lay out a strategy for family values?

Now I happen to think that right along beside that you have to be able to have a job. You know, I see these families in Michigan right now, so many of them impoverished because there are not enough job opportunities out there; people with excellent work records, excellent experience are out of jobs. Their kids are in school. Their kids are growing just like your kids and my kids are growing.

I look at my 7-year-old and she literally grows while I watch. It seems like she outgrows a pair of shoes about every 30 days.

I look at families in Michigan today that are in this terrible economic distress. They need to be buying shoes for their children, be able to buy clothing, be able to make sure that they are able to have the school supplies that they need so they can go and do a good job; if they need glasses to see well, to correct a sight problem, that they have the glasses that they need.

We are in a situation now where literally millions and millions and millions of families in this country are going without these basic necessities. I mean, it is just a fact of life. You can go out and see them. You can go out and talk to them.

So, if we do not get this job machine going again in America, and obviously, people in turn have to prepare themselves and they have to do well in the work that they find within our economy. That, obviously, goes with it. It is part and parcel of it.

But that is not our problem today. Our problem today is we have people walking the streets. I received a letter the other day from a man in Texas with a graduate degree. I am going to bring that letter over one of these days and read it; a man with a graduate degree. He has been through three job retraining programs, three different job retraining programs to retrain in three different fields. This man still cannot find a job.

And that is part the problem with retraining. We talk about retraining. We throw that out as a slogan like family values. Retrain for what? We do not know what to train people for right now because there are very few areas in the economy where we can identify job growth.

Now, yes, there is some job growth in health services, because the health care system is out of control. We need to deal with that in a different way.

But apart from that, there is almost no job growth going on in the economy. That is why these confidence figures that I cited earlier are what they are today.

And I do not know if my colleague from Wyoming had a chance to see this data today, but the Conference Board, which is one of the leading places in which measurements are taken each month on consumer confidence in the country, just put out their data again today for the previous month, and the index has fallen again. It has fallen just about three points.

Mr. SIMPSON. Will the Senator yield for a question?

Mr. RIEGLE. Yes.

Mr. SIMPSON. I have been listening to the Senator expound. It is not the first time I have heard him expound about the evils of the present administration in every level of American society.

And the Senator from Michigan is very emotional and highly partisan and we know that.

Mr. RIEGLE. Have I heard the question yet?

Mr. SIMPSON. The question is coming.

Mr. RIEGLE. I will yield for a question. I will not yield for a speech.

Mr. SIMPSON. In asking for CAFE standards, Democrats in this body have continually proposed, sponsored, and advocated increases in burdensome CAFE standards which would affect your State more than any State in the Union. Such a plan would wreck Detroit economically. Jobs would be lost wholesale.

Mr. RIEGLE. Have I heard the question yet or am I missing the question?

Mr. SIMPSON. George Bush was opposed to that initiative.

Senator GORE was one of the proponents and has said the greatest threat to the American society is the internal combustion engine, saying the next time if—if—if there were such an aberration as President Clinton, it would be signed by the President, and the Vice President would urge him to sign it, a CAFE standards bill which would effectively wipe out the rest of the jobs, I guess, that are in Detroit.

I am asking you, how do you reconcile the double speak of that as you continue to speak of the double speak of the President?

Mr. RIEGLE. All right. Thank you. I now hear the question. I want to respond to it.

Mr. SIMPSON. Good. Good.

Mr. RIEGLE. On the issue of CAFE standards and on the whole question of what is going on that is damaging and hurting the auto industry, there are a variety of issues. The single most important one, by the way, is the trade cheating that has been going on for years and years and years, and which the administration has really done nothing to correct.

I do not know if the Senator heard me before, but after taking the trip to Japan a few months ago, our trade deficit with Japan has gotten worse since George Bush went over there and asked them to change the trading relationship and stop a lot of the unfairness. Problems got worse since that time.

So there are a whole host of problems. I would say the trade problem is a manifest part of that situation. That is up at the top of the list.

But with respect to CAFE standards it is very interesting. I lead the fight here as the Senator knows against arbitrary increases in CAFE standards. And I am proud to say we have had some success in preventing that. And I was out in Detroit, as a matter of fact, in the audience at the Detroit Economic Club when Bill Clinton was asked a question about that. He was asked a question about that. He was asked the question because a great ef-

fort has been made to gin that up as an issue.

I mean, here is the economy falling apart, confidence down, unemployment high, all the problems and so forth and the Bush administration has zeroed in on this CAFE thing and used that as a scarce tactic to try to get a banana peel under the Clinton campaign.

Mr. SIMPSON. Is that what that is? I did not understand.

Mr. RIEGLE. Let me finish. I do not yield further right now.

So they have taken that issue and tried to get that out there, to sort of take the attention away from the fact that there is this massive failure of trickle-down economics——

Mr. SIMPSON. I see.

Mr. RIEGLE. In the economy. So he was asked that question. Bill Clinton was asked that question, I think it was either the first or second question he was asked. And he said, and I am paraphrasing but I was two or three seats away and I heard it.

He said that he looked forward to working with the automobile industry and that he was not in favor of arbitrary standards that were going to cost jobs in the future. And he offered an answer in that area that I thought was a good, solid, sound answer and I know him well enough to know that his principle focus, if he is elected and I hope he is, is going to be to go to work on creating jobs in this country. Because that is why, frankly, the President now—a friends of yours, a friend of mine—is about to cashiered. Because he missed the boat on that. He had an economic plan for every country in the world except one. That happened to be America. And now America is in deep economic trouble and so people are about to bounce him out and try Governor Clinton.

Mr. SIMPSON. Mr. President, may I ask another question?

Mr. RIEGLE. If it is a question, yes.

Mr. SIMPSON. A single question. Is there any possible failure in the United States of America today that George Bush is not responsible for, in your vision?

Mr. RIEGLE. Yes, indeed.

Mr. SIMPSON. Is there? I would love to know what it might be.

Mr. RIEGLE. There are many.

Mr. SIMPSON. I do not have the time.

Mr. RIEGLE. There are failures on many levels in this country. But what we are talking about here is in terms of the economic stewardship of the country, which is one of the, I think, most important responsibilities that the President carries. No one else can carry that for him, quite frankly. When he runs for that job that is part of what comes with the job.

He may not want that part of the job. He may love foreign policy and be like the one-eyed President who can see all the foreign policy issues and want to spend every waking minute on foreign policy and not want to have to open up that other eye and see the domestic policy problems. I understand that. You and I know that. This man loves foreign policy and I think he deserves some credit for his interest in foreign policy.

I daresay if you put a map of the world up here right now that George Bush could come in here, he could identify every country in the world. But you ask him to talk for 10 minutes without notes that have been prepared by somebody else on the problems of the American economy and he is going to have a very hard time of it.

That is your problem and it is not just your problem, it is our problem. I mean the absence of an economic strategy for this country is hurting all 50 States. It is hurting fellows and candidates on your side of the aisle. Every article that I have read in the last week on the question of what is going on tells me—these are by third-party analysts—that candidates in your party are now being weighed down by the failure of the administration to have been effective on the economy.

Mr. SIMPSON. Mr. President, I will ask another question, if I may.

Mr. RIEGLE. So you are feeling this problem.

Mr. SIMPSON. Yes. Well, this is an extraordinary litany of things. And oddly enough I have heard everyone of them in much more passionate array, usually when no one is here on the floor. It seems to be more expedient and more fun to whack away on that issue when no one is present.

But I hope, then, with the next administration—if there is one, and there will not be—that you will be doing something adroit to ward off CAFE standards which would ruin your State.

Mr. RIEGLE. I assure you I would.

Mr. SIMPSON. When the only thing that has saved you to this point is President George Bush, thank you very much.

Mr. RIEGLE. If that is the question, I will be here at this desk, and I will be here to stop the CAFE standards.

May I say one other thing to my colleague from Wyoming, because I think we may well get a change in administration. And if we do, there is one thing I am convinced of, and that is, having served on that side of the aisle and this side of the aisle—and I have been in both parties like the senior Senator from South Carolina, who served in both parties, and in fact served in even a third party—I really think we have to figure out a way to get this economic strategy talked through. And I think it has to be done on a bipartisan basis, quite frankly.

One of the things I have said to Governor Clinton, and I will repeat here now, is that should he be elected and become President, I think we are going to have to find a way to work together across the party aisle. I think business and labor and Government are going to have to sit down around the table and leave the guns at the door and figure out how we work together in a team fashion to come up with a strategy that is as effective or more effective than what the Japanese have managed to do in their own way, or the Europeans are doing in their own way, and so forth.

So I would not want my statements about the frustration in the current situation, and the kinds of changes that I think need to be made, to be misinterpreted. In terms of—if there is that kind of change and there is that kind of movement to focus on domestic policy, I for one want to make sure everybody is in the discussion. I do not think we ought to do it according to some harebrained scheme that any one person walks in the door with, whether it is jotted down on the back of an envelope or anything else. I think we better have a serious talk among ourselves and figure out how we get this country going again.

Mr. SIMPSON. Mr. President, I assure the Senator from Michigan I will join in that effort. That is long overdue. And that means everything is on the table—all of it. You saw the vote several weeks ago that was about 28 of us who decided to go over the cliff in an honest approach to get a handle on the entitlement programs. But in doing that they were all sorted out in peculiar categories of senior citizens, disabled veterans, children. And if that is the way it is going to be we will never get it done. Those who will suffer will be the people you seem to be the most cardinal spokesman for. Those are the people that will suffer as we fail to address the issue of entitlements. I never see any terribly hard votes on that from that particular post that you occupy.

I think it would be good if you can tell us what is it that you personally intend to do about the entitlements programs, Social Security cost-of-living allowances, which go to people, a fourth of them who are wealthy, veterans benefits——

Mr. RIEGLE. If that is the question, let me respond.

Mr. SIMPSON. Please. I will leave you with that. I must retire to my chambers.

Mr. RIEGLE. Let me respond to that question. Let us start with Social Security. It is very interesting, and as I am sure the Senator knows, in terms of Social Security it is not Social Security that is contributing to the Federal deficit in this country. It has not added one penny to the Federal deficit. In fact, Social Security is generating more money than it is paying out. Social Security is providing a surplus right now.

I know there are some—I know the Senator has to leave and I understand

he has to preside in his caucus, but I am going to finish the answer to his question. And that is this.

The Social Security payments are not adding to the deficit. There are some who would like to argue about that, because they do not want to have to go and get the revenue other places where it is going to have to be gotten. They would rather go in and shave down the benefits of those on Social Security. In fact we had a move right here in this Chamber when Ronald Reagan was President to shave down Social Security benefits. And the people that they decided to target first were elderly women who were receiving the minimum benefit under Social Security and they came in here with a move to eliminate the minimum Social Security benefit.

It was absolutely incredible. I mean, here was Ronald Reagan, the new President, living in the lap of luxury, coming in here and targeting elderly women receiving the minimum Social Security benefit, a lot of them sort of subsisting on crackers and, you know, minimum things just to keep body and soul together because they did not have any money because it was the only source of income they had. And they decided to come in and target that.

Now, why did they target that? What did they want the money for? Did they want it to reduce the deficit? Of course not. The deficit got a lot bigger. They wanted that to pay for the tax cuts that went in substantial measure to the people at the highest income levels.

The PRESIDING OFFICER. The Senator is advised the hour of 12:30 has arrived and there is a previous order.

Mr. RIEGLE. Under those circumstances, I ask unanimous consent to proceed for 1 additional minute.

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

Mr. RIEGLE. I thank the Chair and I will finish. I just want to finish the sentence.

It is not unfair to say that that approach, the tax cuts for the wealthy, the cuts in Social Security for the minimum benefit beneficiaries, was transferring money from those people up the income scale to the people at the top. Fortunately, we were able to stop the minimum benefit cut, but a lot of that occurred. It was unfair, and it has unbalanced the economy, and that is part of the reason for the fix we are in today.

We need an economic growth strategy. I think we can put one together. If we can get some jobs in this country, we can do something about helping family values. Family values first and foremost means having a job, supporting your family, decent housing, health care, being able to pay the bills and being able to take care of your kids. That is family values.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. The distinguished Senator has been so long-winded. I ask unanimous consent I be allowed to speak for 6 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator is recognized for 6 minutes.

NEGOTIATIONS ON THE CRIME BILL

Mr. THURMOND. Mr. President, in recent months, I have been working in good faith with interested colleagues to resolve the crime bill deadlock. In fact, I was under the impression last week that we had reached a compromise on this issue. However, I feel compelled to respond to the remarks made yesterday by my friend, Chairman BIDEN, in which he accused the administration and my Republican colleagues of killing the crime bill.

As I have discussed previously on the floor of the Senate, the conference committee report on the crime bill, H.R. 3371, sounds tough, but it has proven to be no such thing. With remarkable consistency, the conferees to the crime bill rejected tougher options on major points and opted instead for provisions which expand the rights of criminals.

Although the conference report authorizes additional money for law enforcement, I oppose the bill since it contains numerous provisions which expand the rights of criminals. President Bush, Attorney General Barr, prosecutors, and victims' groups have all expressed strong opposition to the conference report because it, for one thing, overturns numerous Supreme Court decisions on death penalty appeals.

The result is a bill that expands the litigation rights of death row inmates. Rightfully, efforts to force the so-called compromise through the Senate have failed on two previous occasions. Yesterday, despite our good faith negotiations, Senator BIDEN announced that the majority party will drag this procriminal bill onto the floor one more time.

As my colleagues know, I have fought for congressional action on a tough crime bill for several years and, despite the disappointing action of the conference committee, I have remained strongly committed to passing a bill. I continued to work with my colleagues to try and resolve our differences, as did Attorney General William Barr.

Negotiations, it seems, were complete when the Attorney General and I agreed to an offer Senator BIDEN had made. In a letter to Senator BIDEN dated September 25, the Attorney General outlined the major points of this compromise. This compromise would have included the Senate-passed Brady bill, the President's death penalty title, a middle-of-the-road compromise on habeas corpus, and all of the funding proposed for additional law enforcement. According to the Attorney General, he and Senator BIDEN had negotiated a package that both agreed was an acceptable basis for compromise.

Unfortunately, the Democrats have retreated and distanced themselves from what we believed to be an accepted compromise. They now claim the Attorney General was mistaken or that he accepted the compromise too late. The fact is, the majority does not want a true, tough crime bill. Rather, they want to enact the conference report, which only sounds tough and which actually expands the rights of violent criminals.

For the past year, Senate Republicans have been forced to listen to the Democrats accuse the administration and Senate Republicans of playing politics with the crime bill. They state that opposition to the Brady bill is the only reason we do not have a bill. Yet, recent events illustrate what I have been stating all along—the President wants a tough crime bill acceptable to law enforcement, prosecutors, and victims. The compromise agreed to by the administration, while not as tough as I would like, is acceptable and it contains the Senate-passed Brady bill. Still, the Democrat's are retreating from that deal.

In closing, I ask my colleagues, "What could be so troublesome about this compromise that they should oppose it?" It drops the exclusionary rule reform, which I support. It goes more than half way on habeas reform, contains the Brady bill, a real death penalty, and all of the increased funding for law enforcement. According to the Attorney General, a deal was reached and the Democrats backed off.

Mr. President, when one reviews the facts, instead of the rhetoric, it becomes clear that President Bush and Republicans do truly want a tough crime bill. Yesterday, President Bush spoke before a crowd in Missouri and talked about how close we were to reaching a compromise on the crime bill. Yet, apparently, the majority party does not share his optimism. Rather than continue to work on a bill, they announced yesterday that the Senate will, yet again, be voting on the procriminal conference report.

Democrats control both Houses of Congress. If they want to pass a tough bill, it is within their power.

Mr. President, I yield the floor.

WOMEN AND POVERTY IN RUSSIA

Mr. PELL. Mr. President, I would like to call my colleagues' attention to a piece by Katrina vanden Heuvel re-

cently published in the New York Times. Ms. vanden Heuvel writes about the disproportional impact that declining economic conditions are having on women in Russia. As an editor of the Nation where she writes on Russian politics and society, Ms. vanden Heuvel's expert observations emphasize the difficulties confronting working women in Russia. Ms. vanden Heuvel clarifies the risks that these women are facing. They are subject to discrimination and harassment in the job market and workplace while anti-discrimination legislation is routinely unenforced. In addition, Russian women now face the dismantling of the Soviet system of child care and potential legislation limiting the number of hours that mothers would be allowed to work.

With the impending influx of American organizations and business representatives into the former Soviet Union, we have an unprecedented opportunity to influence attitudes toward women in the Russian workplace. These Americans can help demonstrate the economic wisdom of making work force participation a viable option for women. As the Senate moves toward consideration of the Freedom Support Act conference report, I believe it is appropriate for us to consider Ms. vanden Heuvel's perspective on the issue of women in the former Soviet Union. I commend Ms. vanden Heuvel's article to my colleagues and ask unanimous consent that it be inserted in the RECORD at this point.

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

[From the New York Times, Sept. 12, 1992]

WOMEN OF RUSSIA, UNITE!

(By Katrina vanden Heuvel)

As the Soviet welfare system collapses, the feminization of poverty may become the new Russia's largest and cruelest problem.

In Moscow, 70 percent of the newly unemployed are women between the ages of 45 and 55. When I visited one of Moscow's recently established unemployment offices this summer, women in line described the kind of discrimination they now face in the job market. Some were turned away because they were too old—in their 40's. Others had been told that their maternal responsibilities made them unreliable workers.

Women's economic desperation is visible on Moscow's streets, too, where the overwhelming number of peddlers are older women and young mothers.

Although anti-discrimination legislation still exists in Russia, it is not being enforced. Sexist (and ageist) job advertisements are commonplace. Alisa, a new brokerage house, published announcements seeking woman aged 18 to 21 for secretarial positions. Applicants were told to come to the interview wearing a miniskirt.

An advertising firm requested that applicants for a receptionist position submit a full-size photo, preferably one showing them in a bikini to display their "full super-attractiveness."

Still worse, legislation being discussed by the Parliament, and likely to be adopted this fall, would prevent women from participating equally in the emerging market economy. Mothers of children under the age of 14 would be allowed to work only a limited number of hours a week, thereby disqualifying them from the best jobs. The legislation is supported by a coalition of Russia's new democrats and old-style conservatives.

In addition, the Parliament and some city governments are dismantling the once elaborate Soviet system of child care. With fewer outside services, women will be compelled to leave the workplace. The Moscow City Council, for example, proposes to close about a third of the city's day-care centers in the next two years. While Russian politicians argue that women resented having to combine full-time work and full-time homemaking under the old Soviet system, a recent poll shows that only 20 percent of Russian women want to stay at home.

Regardless of personal preference, millions of Russian families will not be able to survive without two incomes, as inflation grows. In 1992, women's earnings account for 40 percent of family incomes, while every fifth Russian woman is the family's only breadwinner.

Not surprisingly, Russian women are forming activist and self-help groups. In some ways, their struggle is reminiscent of the American women's movement in the late 1960's. On the other hand, unlike the American economy of the time, Russia's economy is disintegrating and offers few new opportunities. And Russian women are unlikely to find allies among the overwhelmingly male political class.

Should the U.S. care about the plight of women in Russia? The Bush Administration has rightly argued that we must give financial support to Russia's reforms. But most of the aid is conditional on the Yeltsin Government's making drastic budgetary cuts. The cuts, of course, will lead to higher unemployment and fewer welfare provisions, which will victimize women first and foremost.

It would be wiser, more humane and more consistent with our values and laws to make all such aid intended to promote a market economy in Russia conditional on practices that will provide equal opportunity for all citizens. Women should be present at the creation of the new Russia. As my friend Anastasia insists, "Democracy without women is not democracy."

KUWAIT: IS IT REALLY MOVING TOWARD DEMOCRACY?

Mr. DECONCINI. Mr. President, as a Senator committed to the promotion of democracy throughout the world, I rise to address the Senate concerning the current situation in Kuwait.

As my colleagues will recall, the oil-rich city-State of Kuwait has been under the autocratic rule of the al-Sabah family for decades, with true democratic principles rarely guiding that government's policy. The country's unicameral legislature was dissolved in 1986 by Emir Jaber al-Ahmed al-Sabah for its harsh criticism of government ministers. Six years of autocracy have ensued—including a period of martial law—and genuine political participation, as provided for in the constitution of 1962, has been suppressed by a government rife with nepotism and policies that stress the power of the purse at the expense of political reform.

Now, under pressure from opposition parties within Kuwait, as well as the active dialogue initiated by our ambassador, Edward "Skip" Gnehm, Emir Jaber has announced that elections for the General Assembly will take place on October 5—7 years after the last elections.

It is this Senator's apprehension, however, that even though these elections will finally occur, real, multiparty democracy in Kuwait may not be attained for many years. It is my fear that the patrimonialism, patriarchalism and paternalism that have dictated Kuwaiti politics for years will continue.

The powerful diplomacy of the dinar, not the desire for democracy, has for some time dictated Kuwaiti governmental policy. The Kuwaiti leadership has made use of its considerable financial resources—its strong economy and vast oil reserves—to create a welfare state of sorts. Thus the citizenry of Kuwait is used to economic incentives from the government.

Money now plays a different role in politics, however—a role that jeopardizes the country's move toward genuine democracy. There have already been widespread reports of vote-buying throughout the 25 electoral districts, and vote brokers are actively promoting this corrupt practice. Votes sell for around 4,000 dinars, about $14,000, and, according to the Agence France Presse, oftentimes two candidates within the same district team up to purchase votes at half the price.

Opposition groups have denounced this practice—utilized by the political elite and backed by the al-Sabah family—and have attacked the government of Kuwait for their failure to put an end to this increasingly popular campaign strategy.

As my colleagues well know, free and fair elections are the cornerstones of any democratic movement. They are the foundation upon which a true democracy is built. Corruption only hinders the evolution toward fully participatory government. As one opposition leader put it, "Anyone who buys your vote is capable of selling your country and therefore not worthy of representing you in Parliament."

Mr. President, in light of the potential developments in Kuwait, I urge the Emir and the government of Kuwait to address the problems of vote-buying and possible electoral fraud so that freedom and sovereignty are afforded the people of that ravished nation. The people of Kuwait are so close to a return to democratic government; they cannot risk the possibility of a reversion to the days of autocracy. A clean break with the nepotism and inequity of the past is necessary—for all of the people of Kuwait.

I ask unanimous consent that a letter I sent to Ambassador Gnehm, and

his response via State Department cable, be printed at this point in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 9, 1992.

Hon. EDWARD R. GNEHM,
Ambassador, U.S. Embassy, Kuwait City, Kuwait.

DEAR SKIP: I read in the paper last week that you have been encouraging the spread of that dangerous concept called democracy. All I can say is: keep up the good work!

It is deeply troubling to me that after all that Kuwait and the Kuwaiti people—not the royal family, but the people themselves—have gone through, there continues to be a deep-seated fear of democracy and true accountability in governance. It bothered me when you and I were in Kuwait in 1989. It bothered me about going to Kuwait's rescue. And it continues to bother me today—especially because American blood was spilt to liberate that nation.

I am pleased that you are serving as a burr under the Sabah family's saddle and that you are speaking up for what America is all about. While it is true that we have flaws in the application of our democratic system, it continues to serve as a model and a beacon of hope for others around the world.

Again, I am glad that we have you over there. Please let me know if there is anything I can do to assist you in the future.

Sincerely,

DENNIS DECONCINI,
U.S. Senate.

JULY 21, 1992.

Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: Thank you for your letter of June 9th. I am heartened to know that the evolution of democracy in Kuwait (as well as my small role in encouraging this process) made the papers there. More should be done to inform the world on what steps the Kuwait government has taken and continues to take toward instituting a truly representational political system.

It is true that the parliamentary elections to be held here in October will not result in an immediate changeover to Jeffersonian democracy. Kuwait, like its neighbors, is a tradition-bound society. By Western standards, its progress toward democracy has been slow and perhaps overdue.

Unlike other nations in this region, however, Kuwait has taken concrete steps toward the democratic ideal. Its press is unrestricted, its citizens are free to criticize the government without fear of reprisal, and its leaders—the Amir and the Crown Prince—have personally assured all who will listen that their goal is to preside over the transition to a functioning parliamentary democracy as specified in Kuwait's 1962 constitution. I believe that this goal will be achieved.

In sum, Kuwait serves as a model for the type of movement toward democracy we should hope to witness elsewhere in this volatile region. I am proud of the part I have had in encouraging this trend and am happy that you are pleased with the job that my staff and I are doing.

Sincerely,

EDWARD W. GNEHM, Jr.,
Ambassador, American Embassy.

KUWAIT, KUWAIT.

CUTTING GOVERNMENT WASTE

Mr. SEYMOUR. Mr. President, the Federal budget deficit has now grown to more than $1 billion a day. The most recent Bush administration estimate of the 1992 fiscal year deficit was $399.7 billion. The deficit continues to be the number one fiscal travesty of our Government. Despite several attempts during the past few years, Congress has failed to solve this problem of epic proportions.

The traditional view of deficit reduction is that a balanced budget can only be accomplished through raising taxes and eliminating Government programs. But Congress can spare the American people these twin burdens by taking steps to diminish the excessive operating costs of Government itself.

The General Accounting Office [GAO] recently published its annual report summarizing the findings and open recommendations of its audits of Federal agencies and departments. The report illustrated that improved management and accounting practices on the part of Government officials alone would begin to chip away at the deficit. For example, the GAO concluded that better management of the "Army's unserviceable inventories could save millions." Likewise, the GAO stated that the monopoly-like status of the Government Printing Office [GPO] breeded inefficiency and ineffectiveness. Furthermore, a financial audit of the Library of Congress [LOC] disclosed significant financial problems. The LOC could not even "substantiate the number or value of items in its collection, support its accounts receivable or its advances from others, or effectively prevent duplicate or incorrect payments."

Congress itself has added to this waste by earmarking funds to projects of dubious worth and by creating for itself a privileged working environment. The Washington Post reported that the $271 billion 1992 fiscal year Defense authorization bill contained a significant number of earmarks which were never requested by the Defense Department or scrutinized by the hearing process, Mr. President. Other such earmarks in 1992 fiscal year appropriations bills include $4 million for a National D-Day museum in New Orleans, $25 million for an Arctic region supercomputer, and $5 million to lobby the National Marine and Fisheries Service to keep salmon off the endangered species list.

Many studies have been undertaken in an attempt to do away with such waste. The President's Private Sector Survey on Cost Control, more commonly known as the Grace Commission, was the most exhaustive study of Government waste to date. In 1984, the Grace Commission proposed 2,478 recommendations to cut waste and inefficiency in the Federal Government. Over 80 Grace initiatives were adopted during the 99th Congress at a savings of $33 billion over 4 years. Yet, enactment of all of the Grace proposals would have saved taxpayers $424.4 billion over a 3-year period.

The Grace Commission, however, is not the final word with regard to eliminating governmental waste. The Council for Citizens Against Government Waste recently published a 13-point proposal to eliminate Government waste, increase Government efficiency, and control the Federal deficit. The plan recommended adopting "procedures to identify and eliminate porkbarrel spending" and statutory limits on spending growth that would force Congress to live within the means of the people. The council also advocates "privatizing Federal services that can be performed better, and for lower costs, by the private sector."

In April of this year, the Senate approved an amendment which I introduced to the 1993 budget resolution cutting legislative branch spending by 25 percent over a 2-year period. If we are to address waste throughout government, we must first put our own house in order. My amendment represented an initial step on the road back to fiscal responsibility and was, I believe, influential in pushing the House to adopt a reduced funding package for its operations in fiscal year 1993.

In addition, Mr. President, I have initiated further steps to reduce Government waste by introducing Senate Joint Resolution 60 to reduce the Federal Government's overhead expenditures by 10 percent. These overhead expenditures cost taxpayers $270 billion annually. Cutting such costs by 10 percent will save the Government $141 billion over 5 years.

Finally, last summer, in the midst of a recession, the Senate voted to raise its pay by more than 20 percent. I not only voted against this pay raise, but returned my portion of it to the U.S. Treasury. We did not deserve that raise and will not until our Federal spending practices are under control.

I believe that a new National Blue Ribbon Commission To Eliminate Government Waste, such as the one proposed by Senator LOTT and Congressman LOWERY, should be formed. It would undertake a thorough review of all of the Grace proposals that were not enacted, as well as the pending recommendations of GAO, the Congressional Budget Office, and other governmental and nongovernmental bodies. We need a credible and objective assessment of this problem so that we may devise an intelligent solution to it.

Mr. President, wasteful Government spending is a serious and difficult issue, but it is not intractable. The excessive operating costs of the Federal Government, including the legislative branch, must be pared. Americans of all ages and races make hard economic choices everyday. It is time that we in this body begin to do the same.

TRIBUTE TO DR. CONSTANCE CLAYTON

Mr. SPECTER. Mr. President, I wish to recognize and commemorate the 10th year of of Dr. Constance E. Clayton's tenure as superintendent of the Philadelphia School District. This anniversary falls on October 4 of this year, and I want to congratulate Dr. Clayton and highlight her accomplishments in the decade since she took office.

Mr. Clayton has restored fiscal stability, instilled labor peace and initiated a capital improvement plan in the Philadelphia schools. During Dr. Clayton's tenure, the school district has consistently improved in academic achievement, demonstrated an enhanced commitment to excellence in math and science, and instigated a core curriculum ensuring educational equality. Dr. Clayton also instituted a vibrant, varied, and growing partnership network with businesses, communities and institutions of higher education. Under Dr. Clayton's direction, Philadelphia has procured unprecedented foundation support and developed the major goal's plan and a governance model for shared decisionmaking/school based management. The culmination of these accomplishments is the designation of Philadelphia as an American 2000 community.

In keeping with Dr. Clayton's personal and professional philosophy that "the children come first," the district has pursued funding for an successfully implemented critical programs including: establishment of school-based health clinics and HIV and substance abuse prevention and education programs; expansion of the kindergarten and Head Start programs and initiation of the Even Start Program; revitalization of career and vocational education programming; implementation of the Philadelphia Parents as Teachers Program for teen parents; and creation of technology programs funded by major corporations to equalize access to technology for disadvantaged, inner city students.

Dr. Clayton is herself a graduate of the Philadelphia public schools. She earned a B.S. and her masters in education at Temple University, and her doctorate in education leadership as a Rockefeller scholar at the University of Pennsylvania. She has also been awarded honorary degrees by 15 colleges and universities. Dr. Clayton's career in the Philadelphia school system began in 1955 when she was hired as a teacher. In 1964, she became a collaborating teacher in the social studies department of the division of curriculum and instruction. In 1969, she served as project director of the Staff Development Program in African and Afro-American studies. From 1971–72 she served as the regional director of the Women's Bureau, U.S. Department of Labor. Upon her return to the school district in 1972, Dr. Clayton was appointed director of early childhood education programs; subsequently she was named executive director and then associate superintendent of early childhood education.

Dr. Clayton's commitment to excellence in education extends beyond her career posts. She is actively engaged in leadership activities in the community and serves on a number of boards including that of the Public Broadcasting System, the Private Industry Council, the National Board of Medical Examiners, Research for Better Schools, the Area Council for Economic Education, the American Association of School Administrators, Committee to Support the Public Schools, the Children's Defense Fund, and serves as president of the Council of Great City Schools.

Dr. Clayton is the well-deserved recipient of numerous achievement awards: The Gimbel Award, the Police Athletic League Award, the Humanitarian Service Award presented by the Philadelphia Commission on Human Relations, the Distinguished Daughters of Pennsylvania, and the American Spirit Award presented by the U.S. Air Force Recruiting Service.

I wish to thank Dr. Clayton for her tireless and generous efforts for the children of Philadelphia. I commend her numerous accomplishments and accolades and congratulate her on this auspicious anniversary.

CONTROLLING RISING HEALTH CARE COSTS

Mr. PACKWOOD. Mr. President, an op-ed which appears in today's Washington Post, discusses the problems associated with controlling rising health care costs in this country by imposing a global budget on health care. The article is written by Michael D. Bromberg of the Federation of American Health Systems.

Mr. President, I will not go into the details of his arguments against a global health care budget, but I would like to quote the last paragraph of Mr. Bromberg's article. I think this paragraph summarizes his arguments well:

> (But) prohibiting private health spending above some magic number—regardless of need—flies in the face of our constitutional guarantees. It is ironic that those who want government to limit our personal decisions on health spending are the first to proclaim their belief that "health care is a right, not a privilege." They ought to realize that under the Constitution, rights belong to the people—not the government.

Mr. President, I ask unanimous consent that a copy of Mr. Bromberg's article be inserted in the RECORD.

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

[From the Washington Post, Sept. 29, 1992]

HEALTH CARE: LET THE PEOPLE SPEND

(By Michael D. Bromberg)

Imagine the public outcry if Congress passed a "global entertainment budget" limiting the amount of money citizens may spend on movies, fast food and family vacations. That is what the Democratic leaders in Congress and their presidential nominee, Bill Clinton, are advocating for health care expenditures.

Frustrated by their inability to control federal health costs, these liberal lawmakers are suggesting an annual "global health budget" for the private sector. This mechanism would set an arbitrary ceiling on aggregate public and private health care spending. The cap would be enforced by controlling prices, which inevitably would limit health care purchases and lower the quality of care.

Whether applied to entertainment or health care, the concept of a global budget would require a constitutional amendment; our forebears did not grant government the authority to apportion our personal incomes. Congress does have limited authority to ration private consumption of scarce resources such as food and gasoline during national emergencies. Even during peacetime, Congress has invoked its authority to protect the public safety by requiring cares to be equipped with seat belts and by setting a national speed limit.

But the United States is not at war, and health care is hardly a scarce resource. In fact, capping individuals' health care purchasing would have a detrimental impact on public health. The use of a global budget even exceeds the health policies established by countries that embrace socialized medicine. In Great Britain, for example, citizens retain the freedom to purchase supplemental private coverage. Canada, which lacks our constitutional protections, does limit all health spending as well as such individual choices. Fortunately, most Canadians live near the U.S. border, and we provide the state-of-the-art health care they covet.

Our government does have the authority to balance individual rights against the overall welfare of the public, but it must do so cautiously—any restriction on our fundamental rights must stem from an overriding public interest. The Supreme Court has vigorously defended this principle by overruling laws that do not meet this "strict scrutiny" test. In doing so, the high court has cited our Constitution, its amendments and the Declaration of Independence as authority.

For instance, in *Buckley v. Valeo*, a cap on campaign expenditures by private citizens running for office was struck down as a violation of the First Amendment right to freedom of expression. Government-set limits on individual liberties, such as the right to personal privacy, were rejected under the due process clause of the 14th Amendment in *Griswold v. Connecticut* (which voided a state statute prohibiting the use of contraceptives). No overriding public interest would be served by forfeiting to government individuals' freedom to choose what they buy and how much they spend on health care service.

It would be constitutional for Congress to cap federal health spending because that involves the allocation of tax dollars. That would be unwise public policy, however, because a federal health cap would only compound the dilemma of the millions of poor Americans who do not qualify for Medicaid. It also would be legal for Congress to limit tax subsidies for private health expenditures, such as the tax deductions and exclusions for employer-paid insurance.

Reforming our health system to increase access and control costs is essential, and there are many pending proposals to achieve it without raising serious constitutional questions. The examples include:

Changing our tax laws to encourage cost-effective health plans:

Accelerating efforts to measure quality and eliminate unnecessary care:

Reforming malpractice laws to reduce the cost of defensive medicine; and

Establishing purchasing groups to lower the cost of insurance for small business.

But prohibiting private health spending above some magic number—regardless of need—flies in the face of our constitutional guarantees. It is ironic that those who want government to limit our personal decisions on health spending are the first to proclaim their belief that "health care is a right, not a privilege." They ought to realize that under the Constitution, rights belong to the people—not the government.

RESIGNATION OF SECRETARY OF VETERANS AFFAIRS EDWARD J. DERWINSKI

Mr. CRANSTON. Mr. President, I was quite surprised and sincerely disappointed to learn this past weekend of the resignation of Veterans Affairs Secretary Ed Derwinski.

Mr. President, in my nearly 24 years in the Senate, I have known and worked with eight VA Administrators and one Secretary. Many have done a very good job at VA. Some have not done well at all. Ed Derwinski and I certainly had numerous differences, and I did not hesitate to criticize him for taking actions or positions I considered misguided. Moreover, he is a Republican's Republican and my roots are all Democratic and, although we tried to keep partisan politics out of veterans affairs, it did crop up from time to time. But having said this, I have to conclude that he was a fine head of VA. His appointment as the last Administrator and first Secretary turned out to have been a very good one—and I have told him so.

I wish him well in his future endeavors—except, of course, in his campaign assignment in the next 5 weeks.

In his role as head of the Department of Veterans Affairs, Ed had clear and direct access to the President. He did not abuse that access as far as I know but, when he felt compelled to use it, the results were to the benefit of America's veterans. The most dramatic evidence of that can be seen in his success in each of the last 3 years in gaining the President's approval for a significant increase in funding for VA medical care.

During Ed Derwinski's tenure as VA Secretary, he was right on a large number of issues. His attention to VA's health-care system was timely and helpful. He insisted that the quality of care be first rate and set in place some significant changes to promote that result. He believed that VA had to have a place at the table when national health-care reform is under discussion—a view I share unequivocally—and he took steps to make that happen. He was right to call for a commission to focus on the future of the VA health-care system.

He was also right to take aggressive, compassionate action to address the concerns of Vietnam veterans about exposure to Agent Orange. He was right to oppose smoking in VA health-care facilities. He moved quickly to address the needs of our most recent veterans of a period of war, the Persian Gulf War veterans. VA took steps to meet these veterans needs shortly after the fighting ended and is in the forefront of activity today to address the concerns of some of these veterans for the impact of their service on their health.

Mr. President, in what may be the greatest irony in this matter, Secretary Derwinski may well have been right about the issue that I understand to be a root cause of this situation, the so-called rural health initiative. While I had some serious questions about the pilot program and while I did not believe VA did the best job selling it, it did not strike me as necessarily bad for veterans. Indeed, at least at one of the two sites where the pilot program was going to be carried out—the Salem, VA, VA Medical Center—the program clearly would have been a boon for veterans. Veterans who lived near the rural clinics where VA staff were going to go would have gained significant new access to VA care. In any event, I had hoped that that issue would have been behind us by now. But, obviously, that was not to be.

Mr. President, the one silver lining that I find in this dark cloud is that Deputy Secretary Tony Principi will be serving as Acting Secretary. Tony, who has adopted California as his home State, is an extremely capable public servant and an old and valued friend. I have enjoyed a fine, productive relationship with him ever since his days as Senator SIMPSON'S and Senator MURKOWSKI'S chief counsel on the Veterans' Affairs Committee in the mid-eighties and throughout his 3½ years as Deputy Secretary. I am confident that he will do a fine job as Acting Secretary and look forward to working with him in the weeks ahead.

INDIA CLEANING UP GANGES RIVER

Mr. PRESSLER. Mr. President, a very interesting front page story appeared in Friday's Washington Post. The article, written by John Ward Anderson, describes India's efforts to clean up the Ganges River, which is considered sacred by India's 750 million Hindus.

I have had a personal interest in Ganges River pollution control and cleanup efforts ever since discussing this matter with the late Indian Prime Minister Rajiv Gandhi in January 1985, shortly after his inauguration. In fact, I felt honored to be the first American elected official to meet with Gandhi following his inauguration.

The Prime Minister invited me to his personal office for a private meeting that also included our then Ambassador to New Delhi, Harry Barnes. It was clear from the beginning of our discussion that pollution control ranked very high on Prime Minister Gandhi's agenda. When our conversation turned to the Ganges River, I ventured the observation that the U.S. Corps of Engineers had considerable experience and expertise in dealing with riverine pollution. With Ambassador Barnes' support, I recommended to the Prime Minister that he make a request to the U.S. Government for technological advice and assistance in his efforts to address pollution of the Ganges River. I am pleased to note that the Washington Post article quite accurately credits Gandhi with having initiated the Ganges cleanup effort.

One humorous result of my meeting with Prime Minister Gandhi in his private office in New Delhi was the curious reaction of a Los Angeles Times reporter. Our U.S. Information Service asked me to participate in a press conference with Indian and foreign journalists after my meeting with Gandhi. Of course, I told the journalists about my Ganges River pollution discussion with the Prime Minister. Days later, I was rudely surprised to read an article in the Los Angeles Times which virtually accused me of insulting Hindus by publicly discussing their polluted sacred river. The Washington Post article of today, more than 7 years later, gives me some comfort that not all U.S. journalists are afraid to write about the realities of pollution in other nations.

Mr. President, I am pleased to see that India is making some progress in cleaning up the Ganges, and I wish that nation well in that effort. Improving the cleanliness of the Ganges River is a matter of great importance to the people of India. I ask unanimous consent that the Washington Post article appear in the RECORD.

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

[From the Washington Post, Sept. 25, 1992]

THE GREAT CLEANUP OF THE HOLY GANGES

(By John Ward Anderson)

VARANASI, INDIA.—Every day thousands of Hindus flock to the shores of the great Ganges River here, where they drink and bathe in the holy water as partially cremated corpses float past them and nearby drains spew millions of gallons of raw sewage into the river.

While the faithful seem unfazed, the Indian government—concerned that religious rituals and social customs have helped turn India's most sacred river into a 1,568-mile health hazard—has devised a solution for the most unsightly problem: specially bred snapping turtles to eat what is left of the corpses but do not nip at religious bathers.

The turtle program is part of the largest environmental project in Indian history—cleaning up the Ganges River, from its glacial source in the Himalayas to its mouth in the Bay of Bengal.

The biggest challenge according to environmentalists, comes not from the rapid ur-

banization along the river's shores, but from the firm belief among many Indians that the Ganges—called "Ganga" by Indians and considered the physical manifestation of the Almighty—is so spiritually pure that it cannot be polluted, regardless of how much garbage is dumped into it.

"A dip gets rid of illness and infection, and all sins are washed away," said C.L. Pandey, 45, a priest at Kashi Vishwanath Temple, one of the most famous temples in Varanasi.

He conceded, however: "Because of all the sewage and the corpses that are sometimes thrown into the river, and with people urinating, taking a bath and washing their clothes in the river every day, people are beginning to realize it's dirty. But the purity and sacredness of the river can never be destroyed or even diminished. Even a breeze from the Ganga is enough to wash sins away."

Clean water is one of India's most scarce resources, but as in many developing nations, the money and technology needed to properly treat sewage are not available in most cities and villages. With the country's 850 million population expected to double in 34 years, officials are concerned that Indians will have no choice but to continue dumping raw waste into local waterways, contributing to epidemics of diarrhea and other diseases that kill thousands of people annually.

Keeping the Ganges clean is made especially difficult, according to environmentalists, because faith in the river's incorruptible purity has generated complacency and ambivalence about its pollution among many of the 300 million people who live in the Ganges Basin. More than 410 million gallons of untreated municipal sewage, industrial waste, agricultural runoff and other pollutants are discharged into the river every day.

At the same time, officials estimate that more than 1 million people a day bathe or take a "holy dip" in the Ganges, and thousands drink straight from the banks. Every 12 years, during the religious festival of Maha Kumbha Mela, as many as 10 million Hindus trek to the city of Allahabad to bathe in the Ganges.

In 1986, in an effort to save the river, then-Prime Minister Rajiv Gandhi launched the Ganges Action Plan, a $140 million effort to raise the river's water quality so that its entire length would be safe for bathing. Before then, there were no sewage treatment plants along the Ganges.

Officials say that by 1994, 35 plants will be treating 230 million gallons of waste a day. Other measures, including community toilets, sewage diversion schemes and tougher regulations against industrial polluters, also have been initiated in an attempt to do for the Ganges what former President Lyndon B. Johnson's cleanup effort did for the Potomac River, once plagued by raw waste and fish kills.

AMBITIOUS MEASURES

The most ambitious cleanup measures have been targeted for the four-mile riverfront of Varanasi, a 3,000-year-old city that is as revered by the world's 700 million Hindus as Rome is by Catholics, Jerusalem by Jews and Mecca by Muslims.

About a million pilgrims a year visit the city, many traveling hundreds of miles on foot, and traditionally they leave with a bottle of Ganges water to display in their homes. They often pour some of the water into their town's well or stream, and when friends and relatives die, they sprinkle a little into the corpse's mouth.

To die in Varanasi and be cremated on the banks of the Ganges is the dream of every Hindu because of the belief that that will end the cycle of rebirth and bring final salvation. Officials estimate that between 20,000 and 30,000 bodies are cremated here every year, and the ashes are relegated to the river.

Efforts to dispose of partially cremated corpses have proven the most controversial part of the cleanup because, while floating body parts are the most obvious form of pollution, environmentalists say they are not the most toxic.

"We have spent $32 million [in Varanasi] building turtle farms," cackled Veer Bhadra Mishra, 53, a leading advocate of the river cleanup who is a professor of hydraulic engineering at Banaras Hindu University in Varanasi and the chief priest at one of the city's Hindu temples. "I take a dip in the river every day, and they've never even bitten my foot."

The assistant manager of the turtle farm outside of Varanasi said the turtles are fed dead fish from their infancy and are therefore "conditioned so they are attracted to the rotten smell of corpses and parts in the river. The people who are complaining about this are the kind who oppose any program."

He said about 24,400 snapping turtles have been raised and released into the Ganges since the program began in 1990. When fully grown, the turtles will be more than three feet long, weigh about 66 pounds and eat about a pound of meat a day.

"People have told me that when the corpses are brought in bags to the river for cremation, all the turtles flood the banks, and sometimes they start pulling the bags into the river before the fire is even out," he said.

That could be a slight exaggeration, judging from the observations of others.

"We see a lot of turtles, but I'm not sure it's really made any difference with the floating corpses," said Shyam Lal, 30, who operates a sightseeing boat along the Ganges. "We still see a couple of bodies every day, sometimes many more."

Baryar Chowdhury, 45, a manager at the Manikarnika Ghat, the largest wood-burning cremation area where as many as 50 bodies a day are cremated, insisted: "There is no such thing as a half-burned body. They are all 100 percent burned."

'MADE BY THE GODS'

The ghat—a huge stone landing area with steps leading into the river—appears suspended in clouds of gray smoke from blazing funeral pyres. The roar of fire is punctuated by the nearby clang of men splitting logs with sledge hammers and steel wedges.

"Where is the pollution? The river was made by the gods. How can it be dirty?" Chowdhury demanded.

Residents and environmentalists claim that many Indians cannot afford to buy enough wood to fully cremate their relatives, and half-burned bodies are routinely consigned to the river. It takes about 530 pounds of wood costing about $12—two weeks wages for the typical Indian—to fully burn an average-sized body.

Environmentalists complain that wood cremations are helping to devour India's forests, so as part of the Ganges Action Plan, an electric crematorium was built at Varanasi that charges less than $2 per body and does a thorough job of turning the bodies to ash.

With a population of about 1 million, Varanasi generates about 40 million gallons of municipal waste daily, much of it from an estimated 100,000 cows, bulls, water buffalo and other livestock that roam the city's streets and narrow alleys.

S.M. Hammad, a water official who oversees the city's Ganges cleanup, said most runoff and other sewage is captured in drains and about two-thirds of it is treated. The remainder is discharged downstream of the city, he said. However, during the monsoon months, when rain swells the river and floods the pumping stations, the drains are opened, and runoff and sewage flows directly into the river, Hammad said. Because of the huge volume of water, the waste is so diluted "it's not objectionable," he said.

About 70,000 people—half residents, half pilgrims—take a holy dip every day at one of Varanasi's 150 bathing ghats, which are interspersed with Hindu temples and monuments and old palaces built by maharajahs. The majority descend in a chaotic morning rush hour at the riverfront, where hundreds of people often cram the same small stretch of the bank, some plunging and other tiptoeing into the water. Monkeys peer down at the scene from nearby rooftops and chatter from the balconies.

Many people close their eyes and wade into the river up to their waists. Deep in prayer, they cup water in their hands and raise it toward the sun until it trickles down their arms and splashes over their head.

After the spiritual dip, some bathers lather up for more secular ceremonies and brush their teeth or wash their clothes.

"Just by chanting, 'Ganga, Ganga,' you can get God's blessing," said Harendra Dwivedi, 30, a religious scholar who takes a dip twice a day at the Asi Ghat and claimed the river "can never get dirty."

"I know what they're trying to do. They're trying to clean the river. But we don't feel there's anything wrong with the river," he said. "No matter what happens, Ganga will be Ganga."

THE NEED FOR A COHERENT POLICY IN THE FORMER YUGOSLAVIA

Mr. PRESSLER. Mr. President, I have risen on numerous occasions to discuss the war being waged in the former Yugoslavia and what I believe this country and the international community should be doing in an attempt to bring an end to the violence, bloodshed, and ethnic cleansing in that region of the world. In those speeches and in the legislation I have drafted and worked with others to write, I have tried to give life to this country's moral duty to help bring peace and freedom to what was once Yugoslavia.

The situation in the former Yugoslavia deeply disturbs me, as I know it does many Members of this body. For this reason, it has not been difficult to speak passionately about the need to find solutions. However, Mr. President, nothing I have said over these past many months comes anywhere close to the words expressed in a letter to me from one of my constituents, Rose T. Kennelly, of Sioux Falls, SD.

You see, Rose was born in Yugoslavia in 1940. As a young child she experienced firsthand the horrors of war and of the concentration camps. As a 4-year-old, Rose was forced to live in a concentration camp. While she survived, many in her family did not. She talks about the public executions of those who committed the crime of es-

caping from the camp, begging for food, and returning to the camp to share that food with loved ones. She explains how her father hid in grain, chimneys, and attics to avoid conscription into the German army. All of this was possible, she notes, because the truth was not made known to the world at the time those atrocities were occurring.

Rose ends her letter to me, "Dear Mr. Pressler * * * please make the President, the Congress and other officials aware that we need to expose the hidden evil happenings in what used to be Yugoslavia. Please don't leave this now unwritten like the past history of Yugoslavia." Rose Kennelly's personal experiences speak louder and more poignantly than any voice I have heard in any of the debates we have conducted here. I ask unanimous consent that the letter I received from Rose Kennelly be reprinted in the RECORD immediately following my remarks.

(See exhibit 1.)

Mr. President, what can we do to stop the killing and bring peace and freedom to the former Yugoslavia?

In a recent article for the Los Angeles Times, former Secretary of State Henry Kissinger considered the situation in the former Yugoslavia and discussed the need for a coherent strategy in that region. Dr. Kissinger wrote that, "putting an end to ethnic cleansing and concentration camps should be the moral objective; preventing an escalation of the crisis beyond the borders of Yugoslavia the political goal."

I agree with this position and his contention that mixed signals and shifting policies by Western democracies have slowed the resolution of the conflict in the former Yugoslavia. Indeed, in some ways policy decisions have given an unintentional boost to Serbia in its efforts to hold Yugoslavia together. Numerous international meetings have been held in an effort to bring the violence and bloodshed to an end. Serbia has participated in this process. However, little has been accomplished because Milosevic knows there are no real penalties for noncompliance. The U.N. General Assembly has voted 127 to 6 to deny Serbia and Montenegro the right to continue automatically in the seat held by the former Yugoslavia and declared the seat vacant. In addition, the United States, in response to a U.N. request, has begun providing the United Nations with documentation on specific atrocities being committed in the camps of the former Yugoslavia. I understand that several European countries soon will follow suit. Perhaps these actions will demonstrate to Serbia that the world does intend to impose real penalties for Serbia's policy of ethnic cleansing.

Dr. Kissinger also persuasively argues that the best solution in Bosnia would have been to "establish a U.N. trusteeship for Bosnia" rather than simply recognizing the independence of the former Yugoslav Republic. Tragically, it now is too late to take this type of step with regard to Bosnia. However, Dr. Kissinger correctly points out that it is still possible to prevent widespread bloodshed in areas where ethnic cleansing has not yet begun—in particular, in Kosova.

I support Dr. Kissinger's view that if we are to prevent what could become a much broader Balkan war, the United Nations should insist on autonomous status for Kosova and followup such a policy with a "joint air and naval command charged with developing rules of engagement and command structure." As one of the two congressional delegates to the current U.N. General Assembly, the resolution of the war in the former Yugoslavia and the future of a free Kosova will be high on my agenda. No one should be forced to endure the miserable life that has been inflicted on so many Yugoslavs.

Mr. President, I ask unanimous consent that the article written by former Secretary of State Henry Kissinger also be printed in the RECORD immediately following my remarks.

EXHIBIT 1

SIOUX FALLS, SD,
August 6, 1992.

Senator LARRY PRESSLER,
Russell Senate Office Bldg,
Washington, DC.

DEAR SENATOR PRESSLER: Tonight I was watching ABC Nightline News concerning the civil war in Bosnia-Herzegovina with Serbia. The big question was the concentration camps and what can be done. Having personally experienced concentration camps in Yugoslavia in 1945 under the Serbian direction, I feel, I need to speak up for my dead relatives and the starving, dying of today.

One of the best weapons the free world has to fight such sad happenings is to expose the evils. Expose the evil governments. When the honest press exposes such happenings, the evil has nowhere to hide. It is important that we make sure we do not use sensational press, for the evil governments know how to use that to their advantage.

Televisions, videos, is the best media to use to reveal the truth. One needs to overexpose the situation to the world, then nothing can hide.

I am a United States citizen. I was born in Apatin, Yugoslavia in 1940. My ancestors were Austrian-Hungarians. With wars this northern part of Serbia was shoveled between different countries. The people pretty much stayed the same. They learned the new countries' languages. They continued to live there and work there.

After World War II, Tito changed things. The Germans lost the War. Tito promised his followers vengeance for the German invasion of Yugoslavia. He promised them rewards. The reward was the German and Hungarian Territory of northern Serbia. Tito's excuse for vengeance was that those Germans sided with Hitler. Most didn't. My Father hid in grain, chimneys, attics, and Hungary, to avoid the German conscription.

The Yugoslavian government of 1945 made everybody, who had a German name, register with the authorities. People who had Hungarian or other name, or were of other nationality were exempt. Some of those people were of German ancestry, however, with being various countries throughout the years, some people had changed to more Hungarian or Serbian sounding names. First, the Russians took the young adults to Russia to slave labor camps to rebuild their country. Next came the older healthy men, who were used in the Yugoslavian slave working camps. The final group were the useless ones, young children and elderly, who were put into confinement.

They emptied out villages and put many people into one village, one house, one room. The entire village was guarded with machine guns. There one stayed till one died from starvation. First, the very young and elderly died of malnutrition. Then the ones in between. The ones who survived are the ones who learned to side with the oppressor or escaped with the price of their lives. One of the biggest crimes committed in the concentration camp was escaping from the camp, obtaining food through begging, and returning to the camp with the food to share with loved ones. Those who were captured committing this crime were publicly executed. Public executions were done with guns and the requirement of everybody in the concentration camp to be present there.

I was four years old when I was in the starvation concentration camp. I lost one set of great-grandparents and two sets of grandparents. I and my sister survived because of some help from nationalized name friends and the daring tactics of my father. By then the Russians had rejected the ill healthed slave labor workers and returned them to Yugoslavia. There they continued to be in labor camps.

Dear Mr. Pressler, please make our government and the world community aware Yugoslavia, Serbia, is capable of having concentration camps. It worked for them once, when the world was not aware of it. Please, push for truthful revelations. Please make the President, the Congress, and other officials aware that we need to expose the hidden evil happenings in what used to be Yugoslavia. Please don't leave this now unwritten like the past history of Yugoslavia.

Thank you for your attention.

Sincerely,

ROSE T. KENNELLY.

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

[From the Los Angeles Times, Sept. 20, 1992]

HOW TO PERSUADE SERBIA THE WORLD MEANS BUSINESS

BALKANS: WHAT'S NEEDED IS A COHERENT PROGRAM TO MULTIPLY POLITICAL AND ECONOMIC PRESSURES ON BELGRADE

(By Henry A. Kissinger)

It seems only yesterday that conventional wisdom was declaring nationalism "outdated," the integration of nations inevitable, another Europe an war inconceivable. Yet all these impossibilities are unfolding in Yugoslavia, including a new addition to the vocabulary of inhumanity-"ethnic cleansing."

I have great sympathy for the proposition that the consciences of democratic societies require some stand regarding the Bosnian barbarity. But implementation requires analysis of ends and means.

Three conceivable goals exist: imposing peace and restoring the pre-civil war borders of each Yugoslav republic; putting an end to human-rights abuses, especially ethnic cleansing, and preventing a new round of hostilities in such areas as Kosovo, which could expand into an international war.

The restoration of pre-war borders would require a large expeditionary force prepared to remain indefinitely and to accept serious casualties. No nation capable of affecting Serbian calculations is prepared to undertake such a mission.

Putting an end to ethnic cleansing and concentration camps should be the moral objective; preventing an escalation of the crisis beyond the borders of Yugoslavia the political goal. Up to now, the democracies' failure to understand the special conditions of Yugoslavia has enabled the Serbian leaders to create one fait accompli after another.

The Western democracies, with the best of intentions, made the likely inevitable. At first, they supported a more decentralized version of the unified Yugoslav state, largely because its breakup might have set unwelcome precedents. At the same time, the democracies imagined that, if a loose federal system did not work, autonomy for the republics could evolve gradually into full independence.

Each fanatical side interpreted the democracies' ambiguities as support for its own position. The word "autonomy" encouraged the constituent republics to speed their independence. The phrase "outdated nationalism" encouraged the Serbs to expect tolerance for their use of force to hold Yugoslavia together. Serbia, which deserved most of the blame for ethnic cleansing, received another unintentional boost when the democracies imposed an arms embargo against all parties. This gave a huge advantage to the heavily armed Serbs, who, in addition, possess an extensive armaments industry.

The U.N. cease-fire in Croatia, negotiated by Cyrus R. Vance, former U.S. secretary of state, had the practical effect of confirming Serbia's conquests. Though theoretically entitled to do so, no Croat would return to territory technically U.N.—controlled but, in fact, still dominated by Serbian military and para-military ethnic cleansers.

At the same time, the cease-fire saved thousands of lives and, perhaps more crucially for the future, established a vital precedent. The limit of U.N. control has established a dividing line across which further Serbian advances can be resisted by the international community, if the will for it exists. In short, some political demarcation in Bosnia and elsewhere is the precondition for outside intervention, political or otherwise.

All this was but a prelude to the nightmare awaiting in Bosnia-Herzegovina. Having delayed too long to recognize Croatia and Slovenia, thereby creating a gray area for Serbian intervention, the international community rushed to the recognition of Bosnia-Herzegovina. But Croatia and Slovenia were ethnically definable territories; recognizing them-even after the Serbian invasion-created a precondition for demarcation lines along ethnic boundaries. Bosnian nationality, on the other hand, was the invention of international lawyers.

In retrospect and with perfect hindsight, a determined international community should have tried, before recognition, to establish a U.N. Trusteeship for Bosnia. A checkerboard cantonal arrangement might have been sought, with large areas of self-government for the various communities. Such an arrangement could have established ground rules in the name of which "ethnic cleansing" might have been resisted.

All these proposals are put in the conditional, because their implementation would have had to depend on a heretofore missing ingredient: the pressures the international community would be prepared to employ. Periodically, the warring Yugoslav parties are called to meet in international forums—now by the European Community, now by the United Nations. Nothing has ever come of these meetings, because Slobodan Milosevic knows there are no penalties for non-compliance.

The new negotiation between and parties conducted by Vance and David Owen, former British foreign secretary, has the best conceivable leadership. But the problem must not be dumped on the shoulders of the negotiators and even less on the intractable parties. Those nations will to act should put forward a political program. If they are unwilling to do this much, there is no basis for any serious negotiation, let alone for military intervention.

The program for Bosnia should have three components: U.N. trusteeship, cantonization and placing all detention camps, of whatever party, under immediate international supervision. Since these goals will never be accomplished without pressure, the cooperating nations should give a deadline, say 30 days, after which they would lift their arms embargo against any former Yugoslav republic cooperating with their proposal, including Bosnia. Simultaneously, the economic sanctions against Serbia should be tightened. Severe economic penalties should be organized against those of Serbia's neighbors helping it to evade U.N. sanctions. Nothing less will convince the parties that the outside world means business—at last.

There is much idle talk about military intervention in Bosnia. There is next to no basis for it. Within Bosnia, the military contest is nearly over. To reverse the situation, major ground forces would be required. Every NATO leader has assessed ground operations as being too costly. Nor has any outsider ever managed fully to conquer the area, especially once Serbia was militarily involved. What is most needed is a coherent program to multiply political and economic pressures, and to increase the cost to Serbia to continued warfare by removing the arms embargo against victims of Serbian aggression.

There exists, however, a danger not yet overtaken by events for which the preparation of some military response seems essential. The democracies must not miss the boat a third time in areas where ethic cleansing has not yet begun. Kosovo is the most critical. It is perceived by Serbia as the origin of its national and poetic history due to a heroic defeat suffered there against the Ottoman Turks in 1389. As a result of that disaster, the Serbian population was pushed progressively north and today numbers barely 20% of the Kosovo total. The remainder is mostly Albanian Muslims.

If ethnic cleansing were to start in Kosovo, the risks of its becoming international would be grave. Albania has a common border with its compatriots in Kosovo. Turkey is not likely to permit another round of "ethnic cleansing" of Muslims without injecting assistance. Macedonia, Bulgaria and Greece could become involved as they have in previous Balkan wars.

Serbia must be given to understand that the world will not tolerate a Balkan war over Kosovo, and that an attempt to repeat the pattern of Croatia and Bosnia will make international retaliation against Serbia itself unavoidable. The only way such a threat will be believed is if the United Nations insists on an autonomous status for Kosovo and organizes a joint air and naval command charged with developing rules of engagement and command structures.

But if we want to avoid being faced down again, it is important that a coherent strategy be developed first. The haphazard round of ad hoc conferences needs to be replaced; military measures—if used at all—must be related to agreed political principles. It is dangerous to talk of one-shot bombing raids or of attacking specific targets like bridges or munitions plants unless one knows how far one will go. Otherwise, one runs a grave risk of fulfilling Bismarck's warning: "Woe to the statesman whose arguments at the end of a war are not persuasive, as they were at the beginning."

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,045,041,387,267.48, as of the close of business on Friday, September 25, 1992.

Anybody 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 Federal spending approved by Congress—spending 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 existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,748.10—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?

ALCOHOL ABUSE

Mr. PRESSLER. Mr. President, I rise today to inform the Senate that during the period following the forthcoming adjournment of the Congress, I plan to study the growing problem of alcoholism. I plan to visit with Federal and private sector officials about alcoholism and the most cost-effective alcoholism treatment options.

Alcoholism has destroyed many lives. Fortunately, many have sought help successfully through Alcoholics Anonymous, private treatment centers and the Veterans' Administration.

The treatment cost for alcohol abuse is enormous. In 1992, the VA alone spent $418 million on substance abuse programs. I want to find out whether this could be done in a more cost-effective manner.

We all know that Federal resources are limited. My goal is to find the best way to help the most people deal with the deadly problems of alcoholism.

I look forward to addressing the Senate on this issue again in the future.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:38 p.m., the Senate recessed until 2:17 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

EXECUTIVE SESSION

THE START TREATY

TREATY DOCUMENTS NOS. 102-20 AND 102-32

The PRESIDING OFFICER. Under the previous order, the Senate will return to executive session to continue with the consideration of the START Treaty.

The clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 45, Treaty Document No. 102-20, treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms, the START Treaty (Treaty Document No. 102-20).

Calendar No. 46, Treaty Document No. 102-32, protocol to the treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms (Treaty Document No. 102-32)

The Senate continued with the consideration of the treaty and the protocol.

The PRESIDING OFFICER. Under the previous order, the Senate stands in executive session, and the Senator from Rhode Island is recognized to proceed.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I would like to briefly explain the amendment that I will offer to the resolution of ratification to the START Treaty.

I met just this morning with a group of ranchers from western South Dakota. Some might ask, what do ranchers in western South Dakota care about an arms control treaty with Russia and other countries?

Well, it happens that there are launching silos in which ICBM missiles were deployed in western South Dakota. Those missiles will be removed and after the missiles are removed the treaty says that the silos must either be blown up or excavated. This could hurt the water supply in western South Dakota.

There are many artesian wells which supply the small communities and ranches in that part of my State with water. The blowing up of the missile silos could result in ruining the environment for the ranchers and small cities and towns in western South Dakota.

It is somewhat ironic that this good news, this wonderful news of an arms control treaty, which I do support, could have the result of these ruining wells and aquifers. The towns in western South Dakota pump water out of these aquifers. The artesian wells in the area naturally push water upward.

Thus, for example, when many of the silos were built, artesian water flowed into them, they had to be pumped out, and measures designed to keep them drained had to be installed. The point is that the missile silos and the water supply in western South Dakota are very closely linked.

For this reason, my amendment provides that the issue of destroying these missile silos be placed on the agenda of the Joint Compliance and Inspection Commission established by the treaty so that technical experts can figure out a way to destroy the silos in a way which would not pollute the waters of western South Dakota.

Of course, this has a bigger effect than just on the ranchers there. This water goes into the Oglala Aquifer upon which States other than South Dakota also depend for water. Some of the water that could be affected eventually flows into the Missouri River, which flows all the way into the Mississippi and throughout the United States.

So it is an environmental problem. However, it is one that is solvable. There are methods that can be used to assure the Russians that we will not put any missiles back in these silos at some point, but that will not do damage to our environment. The Russians must do the same thing. I would guess maybe they have some of the same problems, although maybe their missile silos are not located near major water supplies.

But that is the purpose of my amendment.

I thank my colleague from Wyoming, and my colleagues from Indiana and Rhode Island, for their understanding. Our staffers are working out language on this esoteric subject which has brought the ranchers of western South Dakota into international diplomacy.

I thank my friends from Indiana and Rhode Island for their assistance in getting the amendment up at the proper time, and I shall be standing by waiting for their call.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from South Dakota for offering these words of explanation.

As he has correctly stated, his amendment will be a declaration to the articles of ratification. Hopefully, after all amendments to the treaty have been completed, we will move then to the articles of ratification and his amendment or his declaration will be in order at that time.

I would indicate on our side of the aisle, I have been working with the distinguished Senator, and I think that is true of the chairman of the committee, so that it may be possible at that time to accept that declaration.

I thank the Chair.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. This is an excellent amendment and one that I think is needed by the people of South Dakota.

When the time comes, I look forward to accepting it on this side of the aisle.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I intend to vote against the proposed START Treaty for several reasons. I believe it is unequal, it is destabilizing, and it is unverifiable, to summarize succinctly.

Moreover, START is not an arms reduction treaty at all, as it has been advertised as if you just read about it in the paper or saw it on TV. It is billed as some kind of an arms reduction treaty. But START does not require the destruction of a single ballistic missile or a single nuclear warhead. And, further, START allows the continued mass production and retention of an absolutely unlimited number of new ballistic missiles and nuclear warheads. This is not an arms reduction treaty; it is an arms production agreement.

Unfortunately, in addition to these flaws of START, there is still a pattern of violation of all existing control of treaties by the former Soviet Union.

Mr. President, I want to say at the outset that I do not criticize Russian President Boris Yeltsin, his reformist leadership, or the marvelous things we have seen happen in the former Soviet Union in the past 2 years. I welcome to see the crumbling of the former Soviet

Union, what President Reagan so correctly used to refer to as the Evil Empire.

But I do think that we cannot be naive in the world we live in and think that there may not be some restoration of some form of a dictatorship, whether it be a fascist dictatorship, a restoration of the old hard-line Communist dictatorship, or an authoritarian military dictatorship that would like to restore the military might of that region of the world.

So I think the United States needs to be cautious and careful in its deliberation and be very sure that all Senators are keenly aware of the details of what is in this treaty.

In addition to the flaws of START, there is still a pattern of violations of all existing arms control treaties by the former Soviet Union.

There are even some new arms violations by the former Soviets. For example, the Russians are reneging on allowing the agreed on-site inspection procedures under the new Conventional Forces in Europe or CFE Treaty. Moreover, there has even been a recent Russian-Kazak violation of the proposed START Treaty in regard to illegal ICBM telemetry encryption.

In addition, it will take the former Soviets decades to destroy the huge illegal stockpiles that they have amassed in complete violation and disregard of the 1972 Biological Weapons Convention. Even the State Department concedes that these are new Soviet violations of the CFE, Biological Warfare, and START Treaties.

These new Soviet arms control treaty violations also include ever more serious Soviet violations of the 3-year-old Intermediate-range Nuclear Force Treaty, and the gross Soviet deception on the data regarding their ground forces in the recently implemented Conventional Forces in Europe Treaty.

Mr. President, in my view, this pattern of confirmed and even new Soviet arms control cheating should preclude the ratification of any new arms control treaties.

As I said, now that President Yeltsin is a democratically elected President of the Russian Federation, he has told the American Congress that there will be "no more lies, ever" in Russian foreign policy and I think that he personally wants it that way. But the lies, the deception, the cheating continue. And I have to say, why? Why does it continue?

The reason it continues is because the Russian military is still controlled by the old hardliners who are putting pressure on Yeltsin. As long as he is in power we may be all right. But how long will he be in power? What will the situation be in 4 or 5 years? You have to remember that the structure that is in power in the former Soviet Union military, now the Russian military, they were raised on the doctrine that you tell the West anything that you can tell them to get what you want. And misrepresenting the truth—or as we would call it, lying—is not considered any kind of bad conduct. It is considered that you operate that way; that is just standard operating procedure.

Mr. President, an analysis of the provisions of the proposed START Treaty suggests that START will have essentially the same basic fatal flaws as its predecessor treaties—the Strategic Arms Limitation Treaties—SALTS I and II—primarily unequal levels of forces favoring the Soviet Union. Thus unequal United States and Soviet strategic forces under START will result in the perpetuation of the existing and longstanding Soviet strategic superiority over the United States. That is really what we are talking about. Why should we enter into a treaty that leaves the framework for a nuclear strike force over and above what the United States has?

We probably should be here debating why we should be deploying the SDI, instead of debating some kind of treaty. It would make a lot more sense and would probably bring a lot more comfort to the American people if Congress were addressing moving forward with a strong strategic defense initiative, so we would have that no matter who is in power or who gains control of some of these missiles—what countries may have them in the future—because almost anything, I would say, is for sale in the former Soviet Union. Anyone with cash can buy practically anything over there because there is such a starvation and clamoring for hard currency.

So the stage is set for a great deal of movement of some of these weapons, even to other countries. We should be focusing on doing something to defend ourselves rather than focusing on some so-called treaty that I feel personally has not had the proper scrutiny that it needs.

If I had my way we would set this aside and the Senate could do this next year in the early part of the year when we could take the time and go through it chapter and verse; go through an extended period of hearings and see what has happened and have a little more time to see what is happening in the former Soviet Union in terms of what kind of government they will have, the kind of direction they are going to have for their leadership.

The Soviets have already expanded and preserved their existing and longstanding strategic superiority through SALTS I and II. Thus the former Soviet strategic superiority and the consequent growth of former Soviet nuclear blackmail capabilities have naturally forced continued United States negotiating concessions in ongoing strategic arms negotiations. These United States concessions have achieved ever greater Soviet strategic superiority, which naturally will again be recodified in START.

Thus START will again increase Soviet strategic superiority, as SALTS I and II did before it.

I want to go through the 10 fatal flaws of START. The 10 main defects or fatal flaws of the proposed START Treaty all enhance existing Soviet strategic superiority. They can be listed in summary form as follows:

No. 1, START will fully legalize Soviet heavy, extra-heavy, super-extra-heavy, and mobile missiles, that violated SALT I and SALT II, giving the Soviet enormous military advantages.

The Soviet heavy SS-19 intercontinental ballistic missile [ICBM] has been judged to have violated SALT I. The Soviet SS-24 extra-heavy ICBM and the Soviet extra-heavy SS-N-23 submarine-launched ballistic missile [SLBM] both have been judged to have violated SALT II. And the Soviet super-extra-heavy SS-26—also known as the SS-18 Mod 5—ICBM was developed and flight-tested in violation of SALT II as well.

But due to major American negotiating concessions, all four of these illegal heavy, extra-heavy, and super-extra-heavy missiles will be totally legal under START, thereby greatly increasing already existing former Soviet advantages in first-strike, counterforce capabilities.

I do not think that is a comfortable place for us to be as a country.

In addition, the Soviet SS-25 light, mobile ICBM violated SALT II in several ways, but it too will be made fully legal under START. These missiles were found to have violated SALT I and SALT II by the Reagan and Bush administrations, on the basis of strong intelligence evidence.

Moreover, the former Soviets supplied data on the characteristics of their missiles in START which has actually confirmed these violations.

Thus START will fully legalize five missiles which were clearly illegal under the two previous strategic arms control treaties.

Point 2: With START, the Soviets will achieve a significant bonus in total nuclear warheads, because of United States concessionary agreements allowing the serious undercounting of soviet missile and bomber warhead loadings.

The proposed START Treaty ostensibly allows only 1,600 deployed strategic nuclear delivery vehicles [SNDV's]—ICBM launchers, SLBM launchers, and long-range bombers, carrying a total of only 6,000 nuclear warheads attributed to these delivery vehicles, on each side.

But under START, the former Soviets can actually have, with complete legality, almost 4,000 extra nuclear warheads for their ICBM's, SLBM's, and long-range bombers above the START warhead level of 6,000 on each side.

Mr. President, it just seems to this Senator it would make more sense for us to be taking our Soviet aid package and buying some of these missiles from these people and dismantling them and seeing that that happens, rather than signing an agreement that leaves thousands and thousands of nuclear warheads in a part of the world that historically has always had a dictatorship. Remember, only recently has anyone been democratically elected, freely elected in the Russian republic. We do not know what the future holds.

This former Soviet warhead bonus of almost 4,000 extra warheads arises quite simply because the Soviets have secured United States agreement to seriously undercount their number of warheads carried on several types of Soviet ICBM's, SLBM's, and long-range bombers.

I think that is a point we should all consider. What are we talking about? We have allowed them to undercount the warheads.

Specifically, according to official unclassified information, Soviet SS-18 ICBM's are undercounted by about 1,233 warheads, Soviet SS-N-18 and SS-N-20 SLBM's are undercounted by a total of about 1,566 warheads, and Soviet Blackjack and Bear H air-launched cruise missile [ALCM]-carrying bombers are undercounted by a total of about 1,110 warheads. This deliberate undercounting is called down-loading.

This undercounting results in a total Soviet START missile and bomber warhead undercounting of about 3,909 nuclear warheads.

When these approximately 4,000 bonus warheads are added to the 6,000 warhead START ceiling, the Soviets will have a total of about 10,000 warheads. Thus under START, the Soviets can quite legally have at least about 10,000 nuclear warheads. But as we shall see, they can and will have even more.

Point 3, another fatal flaw. With START, the Soviets also get another significant bonus from allowed stockpiled forces that do not count.

Under START, the Soviets can also legally keep about several thousand more extra warheads on several thousand ICBM's, SLBM's, and long-range bombers that are in the allowed but uncounted categories of being either nondeployed, obsolete, inoperable, nonstrategic, or already stockpiled.

START allows an unlimited number of nondeployed missiles to be produced and retained. All of these categories of Soviet missiles and bombers are thus excluded from counting in the Soviet force totals due to further concessions that we made. This bonus gives the Soviets another approximately 2,000 more totally legal extra warheads.

Mr. President, if you are not concerned that those warheads may be used on us, I think we should be concerned about whose hands those warheads end up in. This is just a total offshoot from the entire discussion with respect to the treaty. But if we are planning to leave that kind of nuclear weapons, viable warheads, legally in the former Soviet Union, in the Russian republic and the other republics that have nuclear forces under their control, with the current ruble meltdown that is taking place, with the potential for civil wars breaking out all through the 15 republics of the former Soviet Union, we are leaving I think a very untenable and a dangerous situation.

Potentially, with an unlimited number of nondeployed missiles that the former Soviets are allowed to produce and keep, they could have many more than 2,000 extra warheads in this category and it does not take silos or trucks to launch these nondeployed missiles. They can be launched from any road or parking lot or flat area, from their own launch canisters.

Therefore, when we add about 10,000 warheads that the Soviets already quite legally retain to these 2,000 also legally excluded warheads, the former Soviets, Mr. President, will have 12,000 warheads—12,000 warheads.

I want to repeat that so that my colleagues understand what this treaty leaves the former Soviet Union. The former Soviet Union can legally have over 12,000 nuclear warheads under START. The Soviets thus can have over twice as many warheads under START as the United States ostensibly will allow. It will have twice as many warheads under START as START supposedly allows them to have.

Therefore, under START, the Soviets can legally have more than double the 6,000 warheads they are allowed under START, to give them 12,000, without even cheating or maintaining covert forces merely due to the multiple concessions that the United States has made, allowing the Soviets significant advantages in missile-bomber warheads counting rules.

These United States counting rule concessions have allowed the Soviets to exclude at least 6,000 warheads or twice their legal allocation. Both the CIA and the House of Representatives Committee on Armed Services have written reports, classified and unclassified, which concur, Mr. President, with this assessment. This just is not me talking. These are concurring reports from the CIA, classified, and the House Armed Services Committee, unclassified.

Fatal flaw 5. It means that the former Soviets can also have twice as many warheads under START as the United States can have under START, which means START clearly codifies unequal levels of forces. START thus clearly entails unequal levels of forces between the United States and the Soviet Union. Under START, the former Soviets can have more than 12,000 totally legal nuclear warheads. But under START, the United States can have only 6,000 warheads. Due to U.S. strategic program decisions already made resulting in U.S. unilateral disarmament, the United States actually plans to have only about 5,000 warheads and that may well be plenty. If we can have the proper accuracy, I am certain it is a deterrent that is nothing for anyone to take lightly.

But START explicitly codifies over a 2-to-1 advantage for the former Soviet Union in clear violation of the Jackson amendment to SALT I. The SALT I Jackson amendment required equal levels of United States and Soviet strategic forces under START. But the Jackson amendment is being torn up by the proponents and negotiators of the unequal START Treaty.

In sum, under START the Soviets can legally maintain more than twice as many warheads as are allowed in the United States. And I pose the question again to my colleagues: Do we really know where those 12,000 warheads will end up? Who will eventually own those warheads? Will they be protected, or will they be sold for hard currency on the international market so that every outlaw bandit in the world will have his own nuclear arsenal?

In addition, the former Soviets are allowed a significant covert force capability above the doubling of their allowed START level. That is fatal flaw No. 6.

In addition to the Soviets' legal allowance for over 6,000 extra warheads, the Soviets have been allowed under START to maintain their capability to covertly and illegally keep almost 2,000 more strategic nuclear delivery vehicles carrying several thousand warheads totally outside the START level.

For example, they can keep their already illegal 200 covert SS-16 mobile ICBM launchers, several hundred covert ICBM launchers at test ranges, thousands of older ICBM's and SLBM's which have been replaced by retrofits of newer missiles and are covertly stored, over 400 existing intercontinental Backfire bombers, plus another 100 newer intercontinental Backfires also allowed outside of START, over 200 Bear naval and older variants of the intercontinental bombers and several thousand more warheads carried on these covert Strategic Nuclear Delivery Vehicles which are completely excluded from the START constraints.

The history of the deception from that part of the world and confirmed cheating in arms control treaties suggests that the former Soviets intend to maintain significant illegal covert START forces. For example, United States intelligence has confirmed that the Soviets have covertly and illegally retained hundreds of banned SS-20's, SS-12's, SS-4's, SS-CX-4, SS-23 INF missiles that they never declared and never destroyed.

So I pose the question again: Where will they end up? Will they actually be parked in the bone yard and become so inoperable that they are no threat to anyone, or will they be clandestinely marketed for cash by people who have control of them in the lawlessness that is breaking out in that part of the world? I think that is a question we should ask ourselves.

Fatal flaw No. 7, Mr. President. The Soviets will thus actually be able to maintain several thousand covert warheads above their already double START level. They have, therefore, also succeeded in gaining United States START concessions explicitly allowing these covert Soviet strategically delivered nuclear vehicles and several thousand more warheads, all to be covertly excluded from the START constraints.

In light of the confirmed fact that we know the Soviets retain significant illegal covert forces under the INF Treaty—we know that now, Mr. President. It all came out. This was in the Gorbachev era, when everyone here was having a love affair with Mikhail Gorbachev and the American media particularly was having a love affair with Mikhail Gorbachev. I think he was made Time magazine's man of the decade, as a matter of fact. But while that was going on, they were covertly hiding missiles for which they had signed the INF Treaty and sworn to destroy, and it later came out with the collapse of the former Soviet Union that some 120 of these missiles had been covertly hidden, when they should have been declared under the INF Treaty and destroyed.

This is what we are dealing with. When you include those covert forces numbering at least 3,000 warheads on top of their legal 12,000 warheads, they will have around 15,000 warheads and we will have 5,000.

Now, I am sure my colleagues will say, well, 5,000 is enough. Maybe it is enough. I would feel more comfortable spending some more money to build a defense for this country from a stray missile that might come from one that is sold somewhere in the future to some smaller country that wanted to raise a ruckus than I would worrying about rushing through the Senate a treaty that will make very little difference in terms of the nuclear reduction. It will make no difference in terms of the reduction and will leave them with 15,000 warheads to our 5,000.

Fatal flaw No. 8: START will more than double the existing Soviet first strike advantage.

This is a very serious matter. I think Senators should take it seriously. The gross asymmetrical force structure, resulting first from the mostly unilateral United States strategic force cutbacks in the proposed START Treaty, and secondly from the Soviet capability to legally maintain over 6,000 warheads and at least 3,000 more covert warheads, when combined with the unequal United States-Soviet targeting requirements, will thus make it much easier for the former Soviets to strike the United States first with nuclear weapons against American missile bomber and submarine bases. Because as we are shrinking our force, they are going to have a twice-the-size force.

Thus START will make it much more easy for the Soviet Union to hit the United States first, because START will not even reduce existing former Soviet quantitative strategic advantages or constrain the significant modernization of several kinds of missiles, bombers, and nuclear first-strike weapons that the former Soviets possess, and that we do not possess and we will not possess.

For example, under START they could have more than 15,000 warheads available for a first strike in order to attack only about 1,500 U.S. strategic targets, thereby giving them an advantage of 15 to 1 on a first-strike advantage. This Soviet advantage more than doubles the already existing Soviet or former Soviet 6 to 1 first-strike advantage.

I know the critics will say, well, that does not make any difference because they are so economically constrained and strapped and wrapped that they cannot do this anyway. Some of these missiles seem to be on a stand-down condition.

That may well be true today but what does the future hold? I say to my colleagues why should we enter into some kind of agreement that we do not have to enter into, that we really get nothing out of? Why do we not just run our own defenses, build our own defenses the way we think we need them, and try to, as the saying goes, bomb them with Sears' catalogs so they can learn about how to enjoy the fruits of capitalism and freedom?

Why is it that we are going into a treaty because it looks good here at home, when the American people really are not aware of what the treaty does? It sounds good and everybody likes the feeling of having a treaty with our former adversaries under the guise that it is reducing the numbers of nuclear weapons in the world when, in fact, it leaves our former adversaries with 15,000 warheads.

Fatal flaw No. 9: START will also allow further former Soviet modernization of their forces to even further enhance their first-strike advantage. That is, in part, due to the U.S. concessions.

Under START they will be allowed to significantly modernize all of their strategic missile and bomber forces, and we will effectively be denied the same qualitative modernization options. Of course the fact of the matter is what we all know to be the truth, our B-52 force is now, very soon, approaching 50 years of age. We had developed in the eighties the newest, most modern, manned bomber in the world, the B-2. But this Congress unilaterally decided not to build it, unilaterally made a decision we will only build 20, if we get that many.

So we have made those decisions here. I see no reason why we need to sign a treaty that allows them, in fact encourages them, to modernize their forces when the U.S. Congress is already very capably unilaterally disarming the United States of America.

I made the comment in the Budget Committee earlier this year as I watched the slicing away—fortunately we saved the President's number in the Senate, not that it ended up that way, but we did do that job in the Senate. But I made the comment it took the U.S. military 43 days to decimate the world's fourth strongest military power. The way the U.S. Congress is operating, it will take them far less than 43 days to decimate the finest military organization in the world; that is, the one that is proudly that of the United States of America.

The 10th final flaw, Mr. President, is: START will not be effectively verifiable. United States intelligence knows that the former Soviets have cheated and, most likely, the odds are that those people in the military that will be responsible for the operation and the maintenance and the care of these missiles, bombers, submarines, et cetera, will cheat again. They have been raised that way. There is no reason to think that they will want to honestly show the world what they have.

Even with an augmented U.S. technical means of START monitoring and verification capabilities, and even with extensive U.S. onsite inspections and other so-called verification measures under the proposed START Treaty, START will still not be effectively verifiable. The START verification regime is full of loopholes inserted deliberately by our former adversaries in order to simplify their cheating. They knew what they were doing when they were working this START Treaty.

It already has been confirmed—the history of the deception from the former Soviet Union—cheating on all existing arms control treaties, including fraud in the inducement of SALT I, SALT II, and INF Treaty, and the Conventional Forces in Europe Treaty, the deception on arms control data; falsification of data on all these treaties and other serious, confirmed Soviet cheating on SALT I, II and the INF Treaty, the proposed CFE Treaty, all together suggests that there has been a persistent pattern of cheating on START, and the United States will continue to have great difficulty in detecting deception and cheating under START.

The facts are that the Soviet mobile missile, ICBM's, constitute 22 percent

of the Soviet legal allowance for strategic delivered missiles under a possible START Treaty. These mobile ICBM's carry about 13 percent of the Soviet legal allowance for nuclear warheads under START. SS-25 road mobile ICBM's are carried on truck launchers almost identical to the Soviet supplied Scud mobile truck launchers deployed in Iraq that are so extremely difficult for us to detect, using both satellite and aerial reconnaissance. It is almost impossible to detect those. We should have learned that lesson in the Gulf.

It is clear that the United States will not be able to effectively monitor and verify the road mobile ICBM deployment over a much larger area that is present in Russia under START using only satellite reconnaissance. It is impossible, Mr. President. It cannot be done.

Given the fact that the Soviet SS-24 rail mobile and ICBM's deployed on deceptive rail appear identical to normal civilian trains, the U.S. intelligence community has reportedly concluded, in a formal written assessment, that it will be impossible to effectively monitor and verify the SS-24 rail mobile ICBM deployment under START. It cannot be verified.

So what is it we are trying to get? I ask my colleagues, what are we trying to get out of this treaty, rather than something that makes everybody feel good here at home, when it has absolutely no impact on the safety and security in my opinion of the American people?

The greatest thing we could do to do something for our own security, Mr. President, is to help the Russian people, and the people in the other former Republics and the other Republics of the former Soviet Union, to develop a system where they have a sound currency and private ownership of their property so they can get a stake in the world that they live in, and they have some reason that they want to maintain a peaceful secure relationship with those of us in the West.

But, to sign some treaty and try to tell people that this is going to help anybody, I just find it is unbelievable for this Senator. I cannot understand how it is that we end up continually coming back to the table to do this same drill over and over again when there has been a pattern of cheating, a pattern of deception. Throughout the 20 years that I have been here in the Congress, there has never been a treaty signed with the former Soviet Union they did not cheat on. There has never been a treaty signed that really gave us any distinct advantage. We always had to do what we had to do. We restored the technology, the training, the morale of our troops, and of our equipment.

And we demonstrated that we had the ability in 1991 to very effectively carry out the political goals of the United States of America in the Free world. That had absolutely nothing to do with any agreements we had ever entered into that dealt with arms control.

We should reemphasize that the START mobile missile monitoring areas in the U.S.S.R. are several times larger than the Scud monitoring areas in Iraq, which are already about the size of several large United States States; and instead of being the largely open desert, the Soviet mobile missile deployment areas in the former Soviet Union are mostly in forests, where camouflage and concealment is much easier to facilitate.

There are also many more monitoring and verification problems with START which will emerge as more details about the START become known.

There will be so many problems with verification. In sum, what I am saying, Mr. President is that there are at least 10 serious defects in this draft as far as I am concerned. Even those 10 fatal flaws in the START are only the tip of the iceberg of the problem with the START Treaty. Many more defects and flaws will emerge as more details about START become known.

I compliment my colleague from Wyoming and his staff, who has spent an enormous amount of time working on this to develop a very logical, rational reasoning behind a go-slow attitude in confirming this treaty. I believe there are several amendments to this treaty, or at least conditions that must be accepted by both sides before this should ever be ratified.

The START Treaty will be more destabilizing than SALT II. It is true that the economy of the former Soviet Union is in shambles right now. It is also true, Mr. President, that the potential in that country with the wealth that they have, inherent wealth, of the resources and the people, that under better leadership they could again restore some stronger economic well-being; and if the wrong people are in control of this military, they could recorral those military efforts and restore their ability to be a super military power again. And the cheapest military that they can maintain happens to be their strategic nuclear strike forces. That is where they can put some well-trained people and just a few people and a concentration of assets, and they can create havoc in the rest of the world if those missiles, bombers, and submarines come into the wrong hands.

To run a massive land army, I would agree that for them to try to attack into Western Europe today with their land army, it would be impossible. They would be decimated at the hands of the NATO forces in conventional warfare. But that is not to say that their SS-18 missiles cannot be fired with some degree of accuracy, and the huge, heavy megatons on those warheads are very destabilizing to world peace and freedom.

Currently, the START Treaty will clearly enhance the Soviet first-strike capability. The proposed START Treaty will thus further erode the survivability of the U.S. retaliatory deterrent capability. Indeed, by allowing a further increase in the overwhelming former Soviet first-strike capability—it is correct to say it was developed by the Soviets and is still in the hands of the former Soviets, and in the hands of some of the same military personnel that helped develop it—the proposed START Treaty seems to be worse and more destabilizing than SALT II, which the United States, I might add, refused to ratify, because it was felt that it was destabilizing.

Here we are on the eve of the election rushing in to ratify another treaty. These new Soviet arms control treaty violations include ever more serious Soviet violations of the 3-year-old Intermediate-range Nuclear Force Treaty, and gross Soviet deception in the new Conventional Forces in Europe Treaty. This pattern of confirmed and new Soviet arms control cheating should preclude the ratification of any new arms control treaties.

I will summarize the 10 reasons why I think we should not do this:

No. 1. START will fully legalize heavy, extra heavy, super extra heavy, and mobile missiles, that violated SALT I and SALT II, giving the former Soviets enormous military advantages. About the only part of their military that they are going to be able to hold together under the current economic system is their nuclear strike forces.

No. 2. With START, the former Soviets will achieve a significant bonus in total nuclear warheads, because of the United States concessionary agreements allowing the serious undercounting of former Soviet missiles and bomber warhead loadings.

No. 3. With START, the former Soviets also get another significant bonus from allowed stockpiled forces that do not count.

No. 4. The former Soviets thus can have over twice as many warheads under START as START ostensibly allows.

Fatal flaw 5. The former Soviets can also have twice as many warheads under START as the United States can have under START, which means START clearly codifies unequal levels of forces.

That is a matter of principle with me, Mr. President. We may have all of the nuclear weapons we think we need, but why should we be signing an agreement with our former adversaries who still, incidentally, have those missiles targeted on the United States. We are still the target for all of these missiles. Why should we be going into a treaty and telling the American people that somehow this means a reduced level of

forces, when in fact it codifies them to be able to have twice the amount that we will have?

Fatal flaw No. 7. The Soviets will thus actually be able to maintain several thousand covert warheads above their already double START level.

I think I left out No. 6, Mr. President, where the Soviets are allowed a significant covert force capabilities above their doubling of their last START level.

Fatal flaw 8. Under START, they will double the existing former Soviet first-strike advantage.

Fatal flaw No. 9. START will also allow further former Soviet modernization of their forces to even further enhance their first-strike advantage.

Fatal flaw No. 10. START will not be effectively verifiable, and United States intelligence knows that the former Soviet Union has cheated and cheated and cheated on every treaty we have signed with them.

Mr. President, I will have more to say later and more to insert into the RECORD, as this debate goes on.

I ask unanimous consent to have printed in the RECORD a full analysis of the current and new violations, together with a detailed and extensive treatment of the 10 fatal flaws that I have summarized here today; the second is an unclassified State Department analysis of the Soviet SS-18 launches over Hawaii in the fall of 1987. The third analysis which is an analysis of confirmed Soviet deception and cheating with regard to many heavy ICBM's; and the fourth which is a detailed analysis of the SS-25 mobile missile loophole in START.

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

THE TEN MAIN DEFECTS OF THE PROPOSED STRATEGIC ARMS REDUCTION TALKS—START TREATY

(Staff Study, U.S. Senate)

INTRODUCTION

Winston Churchill's skepticism during the 1920s and 1930s about the utility and effectiveness for the United Kingdom of Great Britain of arms control treaties for safeguarding world peace is well known, and it still has relevance today.

Winston Churchill believed that arms control treaties weakened Western democracies, and therefore did not help to preserve peace in the face of military build-ups by eastern authoritarian regimes. Churchill believed, therefore, that only deterrence through unilateral military capabilities best served to enhance peace.

Churchill stated the following in 1934 about proposed British-Nazi arms control agreements to the British House of Commons:

"If you wish to bring about war, you bring about such an equipoise that both sides think they have a chance of winning. If you want to stop war, you gather such an aggregation of force on the side of peace that the aggressor . . . will not dare to challenge."

In 1947, Churchill restated:

". . . When both sides believe they are more or less equal, then each thinks it has a good chance of victory."

Here is the relevance for today of Winston Churchill's skepticism about arms control treaties—What if the former Soviets could exploit an ostensibly equal START Treaty in order to achieve a superiority capable of upsetting an assumed equilibrium?

I. SHORT SUMMARY OF START FLAWS

The short summary of this United States Senate staff study is the finding that a proposed Strategic Arms Reduction Talks—START—Treaty will be unequal, unbalanced, destabilizing, and not effectively verifiable.

The proposed START Treaty is conceptually flawed in at least ten important respects.

Indeed, some believe that it is so flawed that it must be completely re-negotiated.

START is not in truth really an "arms reduction" treaty. In fact, contrary to popular perceptions, the Administration's own analysis of START demonstrates quite clearly that START:

Does not require the destruction of a single strategic missile or a single nuclear warhead;

Allows the retention of all existing strategic missiles and nuclear warheads, and allows the continued production of an unlimited number of new strategic missiles and nuclear warheads.

Second, START is not an equal treaty, as required by law—the Jackson Amendment to SALT I in 1972 requiring "equal levels of forces" in any new offensive arms treaty. According to an unclassified report of the U.S. House of Representatives Committee on Armed Services, and according also to several classified CIA assessments, START allows the former Soviets to legally have well over 12,000 nuclear warheads, despite the START "equal" limit of 6,000 warheads on each side, and despite U.S. plans to retain only 4,700 warheads.

Finally, START is not effectively verifiable, particularly in regard to verifying limits on "discounted" and "down-loaded" warheads, "non-deployed missiles," and mobile missiles.

The ten main conceptual flaws of START are as follows:

First, the proposed START Treaty will fully legalize five Soviet missiles which are confirmed to have violated either SALT I, SALT II, or both, thereby giving the Soviets enormous military advantages.

Despite the many falsifications in the Soviet START data declaration, the Soviet data declaration surprisingly confirms several long suspected Soviet violations of SALT I and SALT II.

Evidently, the Soviets decided that by providing data that confirmed their SALT I and SALT II violations, they could accept the limited risk that the United States might charge them with additional violations of the expired SALT agreements, in order to serve the much more important purpose of using their data declaration to exploit the permissiveness of START provisions.

But it is conceptually difficult to understand why a new treaty should legalize and legitimize five missiles which violated the previous SALT agreements.

START thus condones and actually rewards previous Soviet cheating in SALT.

Second, START deliberately, and grossly, undercounts the numbers of nuclear warheads on each side, because of the unwarranted but related concepts of "discounting" and "down-loading."

This deliberate, gross, START undercounting of warheads stems from a well-intended U.S. attempt to encourage both sides to concentrate their nuclear warheads in the more stabilizing "slow flyers" of the bomber forces, which are incapable of a first strike. But by thus opening the door to deliberate, allowed warhead under-counting in START, the un-intended effect is the disastrous result that all the ostensible "limits" of START can be legally transcended. The deliberate under-counting of bomber warheads was called bomber "discounting," and it was intended to encourage deployment of the more stabilizing, slow-flying, and recallable, heavy bomber force.

This allowed under-counting through bomber "discounting" has thus made a mockery out of START's ostensible "constraints." More significantly, when combined with deliberate strategic program restraint by the United States in contrast to the still rather dynamic momentum of Soviet strategic programs, START's allowed under-counting has made an ostensibly equal treaty into a manifestly unequal treaty.

Thus under START, both sides are given bonuses of thousands of un-counted bomber warheads. The United States will get a bomber warhead bonus of about 1,500 uncounted warheads. Not surprisingly, the Soviets will get a slightly larger bonus than the United States in un-counted bomber warheads—about 1,800 warheads, an advantage of about 300 more warheads.

But the Soviets are in a much better position to exploit the permissive under-counting of START than the United States. This is because the Soviets also succeeded in applying this concept of deliberate undercounting of warheads to ballistic missiles, by first introducing into the negotiations, and then achieving the agreement of the United States for them to exploit, the related concept of "down loading" of ballistic missiles.

The Soviets have an enormous advantage in ballistic missile throw-weight, especially in their destabilizing force of InterContinental Ballistic Missiles (ICBMs) capable of a first strike. The Soviets thus sought and achieved the allowed "down-loading" of their most capable ballistic missile, allowing them several thousand extra, covert warheads. Because of the reluctance of the United States to deploy new strategic systems, this allowed missile "down-loading" will largely be exploited by the Soviet Union.

But the Soviets also achieved the agreement of the United States to deliberately under-count 3 additional types of ballistic missiles, with a total under-counting potential of about 3,000 more covert warheads on these three types of missiles (not all of which will be exploitable due to some presumed missile retirements).

Thus this Soviet achievement of exploitable gross under-counting of ballistic missile warheads gratuitously gives the Soviets several thousands more legal, bonus ballistic missile warheads under START than the United States. The Soviets will thus be explicitly allowed to "down-load" but not count at all at least 4,000 ballistic missile warheads, plus another 300 covert, "discounted" or "down-loaded" warheads on heavy bombers—or a total down-loading of about 4,300 warheads, compared to only a few hundred "down-loaded" warheads for the United States.

In short, at least 4 Soviet ballistic missiles will be legally under-counted by at least 40 percent of their warhead carrying capacity.

Four of their most important and most threatening ballistic missiles will thus be counted as carrying thousands fewer warheads than they are capable of carrying. But the United States will not be able to exploit this bonus potential in its own forces, or to

monitor and verify whether the actual, higher Soviet warhead loading capacities are not being exploited.

Thus with regard to the second major conceptual flaw of START—the allowed undercounting resulting in thousands of bonus missile and bomber warheads—the Soviets will be able to exploit START's highly permissive regulatory provisions and the verification provisions in order to achieve several thousands of un-counted, bonus warheads on their bombers and ballistic missiles. In addition, the Soviets will be allowed 1,100 warheads on mobile ICBMs, while in contrast, Congress will not allow the United States to deploy any mobile ICBMs whatsoever.

Thus, as will be demonstrated in detail, under START the former Soviets will be allowed a total of about 6,000 discounted, down-loaded, and other bonus warheads, compared to only about 2,000 bonus warheads for the United States (partly on old B-52 bombers). The Soviets will thus be able quite legally to have almost twice as many bomber and ballistic missile warheads—about 12,000—compared to the 6,000 warheads allowed for each side under the ostensibly "equal" limits of START.

Third, in addition to their several thousands of un-verifiable discounted and downloaded, or bonus, bomber and ballistic missile warheads, the Soviets have also exempted many hundreds of "non-deployed" launchers and ballistic missiles, and also hundreds of "non-deployed" intercontinental bombers from counting under START.

These exempted "non-deployed" Soviet intercontinental bombers are misleadingly classified under START as being for such special purposes as conventional bombing, testing, training, refueling, naval strike, reconnaissance, Anti-Submarine Warfare, electronic warfare, command and control, or as being simply "retired" or "non-modern"—obsolete.

For example, the Soviets are allowed to completely exempt from START up to 500 of their long-range Backfire bombers, which U.S. Intelligence long ago concluded are bombers capable of intercontinental missions, with a range greater than some Soviet intercontinental bombers (such as Bison bombers) included in SALT II. Moreover, a recent Soviet defector has reportedly provided conclusive new evidence that the Backfire bomber has intercontinental range, and therefore should be included within START constraints as an intercontinental bomber.

In addition, thousands of warheads on "non-deployed" Soviet strategic reserve launchers and ballistic missiles are also exempted from counting in START. There are permissive numerical limits even on un-verifiable "non-deployed" mobile ICBMs under START, and there are absolutely no limits whatsoever on extra, "non-deployed" ICBMs for fixed silo launchers. In addition, there are also no constraints whatsoever under START on "non-deployed" Soviet Submarine-Launched Ballistic Missiles (SLBMs), despite the fact that we know the Soviets stockpile extra SLBMs in their six large subterranean submarine tunnels, and despite the fact that the Soviets also have an extensive capability to reload submarines with refine SLBMs at sea.

These totally exempted "non-deployed" ballistic missile launchers, ballistic missiles, and intercontinental bombers will be impossible to monitor and verify. For example, the Soviets will be allowed at least as many as 5,000 bonus warheads on "non-deployed" bombers and ballistic missiles, many of which will be on totally unverifiable railmobile launchers. In contrast, the United States will have only a few hundred bonus warheads in these categories.

Fourth, START does not require either side to destroy a single ballistic missile, or to destroy a single nuclear warhead.

Thus START allows the former Soviets to retain a totally unlimited number of "Non-Deployed Missiles"—an unlimited number of covert ICBMs and SLBMs. Moreover, START allows a totally unlimited number of nuclear warheads. And the former Soviets can actually produce an unlimited number of new ballistic missiles and nuclear warheads under START.

There is then the difficult problem of Soviet covert, strategic reserve forces. The Soviets will be allowed under START to deploy hundreds of entirely legal but covert mobile ICBMs, and their known mobile ICBM reload and refire capabilities will not be effectively constrained. More significantly, U.S. Intelligence has concluded that the former Soviets could easily deploy hundreds of covert mobile ICBM launchers and missiles, with thousands of warheads, without detection, especially on rail-mobile launchers, which are totally undetectable and also the most dangerous.

In addition, the Soviets have retained thousands of older ICBMs and SLBMs which have been replaced by newer missiles, ostensibly for use as "space launch vehicles." There is the strong possibility that several types of covert launchers for these covert, strategic reserve missiles exist, and they would also be totally undetectable. These covert, strategic reserve launchers and missiles are not effectively constrained by START, and they are impossible to monitor and verify effectively. There could be several thousand Soviet covert warheads in these categories, compared to none for the United States.

Fifth, due to the allowance for bonus warheads on "discounted" bombers and "downloaded" missiles, and the permissiveness of other START counting rules allowing several thousand "non-deployed" and covert warheads, and also to the reluctance of the United States to deploy new or additional strategic systems, the Soviets will be allowed to have well over twice as many warheads under START as START ostensibly allows.

Sixth, START thus will not constrain the United States and the Soviet Union to "equal levels" of strategic forces, as is required by the Jackson Amendment to SALT I. The Soviets will be allowed well over twice as many warheads under START as the United States. For example, totalling all Soviet bonus down-loading warheads, "non-deployed" warheads, and covert warheads, and fully complying with START "limits," the former Soviets will probably have under START over 15,000 warheads, compared to only about 4,700 for the United States, not even counting the Soviet potential to retain covert, strategic reserve forces totalling several thousand more undetectable warheads.

In short, START gives the Soviets a massive "breakout" potential that they could easily exploit for the purpose of nuclear blackmail.

Seventh, START does not successfully reduce the existing Soviet first strike advantage. The main Soviet first strike ICBM force is ostensibly cut in half by START, but this force is being modernized and improved in such a way that, even if it is being cut in half, its original first strike capability will be at least preserved intact. Moreover, the Soviets will be allowed to further modernize and qualitatively improve their heavy ICBM force, thus allowing them even to expand their heavy ICBM, first strike capability. And if they cheat and deploy more warheads than allowed on their heavy ICBMs, they could increase their first strike capability even more.

In contrast, under START, the United States is allowed zero heavy ICBMs. Heavy ICBMs are the single most lethal, dangerous, and therefore most important weapon in the world today, and the Soviets will be allowed 154 carrying ten warheads each, which they can continue to modernize, compared to zero for the United States. How can anyone possibly argue that START is an equal treaty under this circumstance?

Eighth, START's permissive "constraints" on modernization and new type ballistic missiles allow almost unlimited Soviet modernization of existing and new type ballistic missiles capable of expanding the Soviet first strike potential. The modernization and new type constraints of START are much too generous to the Soviets, who will be their main beneficiaries, because the United States does not intend to modernize or improve its forces much within the terms of the Treaty. The Soviets will be able, for example, to legally increase the throw-weight of each of their existing missiles by as much as 21 per cent. Thus in addition to already having the number of warheads on most existing Soviet ballistic missiles undercounted by 40 per cent, the Soviets will also be able to increase the throw-weight and the warhead capacity of each of their missiles by another 21 per cent. This will give them enormous "break-out" potential.

Ninth, the Soviets have engaged in at least eight major cases of data falsification in START. The Soviets are known to have falsified the warhead carrying capacities of at least three of their missiles, the throw-weights and other capabilities of many of their missiles, and the modernization possibilities for all of their missiles, and the United States has agreed to all of these Soviet data falsifications. U.S. Intelligence has reportedly done a 65 page study and a National Intelligence Estimate confirming large-scale Soviet data falsification in START.

Tenth, START will not be effectively monitorable or verifiable. The ineffectiveness of U.S. monitoring and verification are key elements in the Soviet ability to exploit each of the first nine conceptual flaws of START. Thus despite an elaborate monitoring regime even including many types of "intrusive" on-site inspections, the Soviets have agreed to a monitoring regime which forces the United States to look in the wrong places at the wrong times for the Soviet cheating that is certain to occur elsewhere.

But before considering the evidence for and the details of the ten arguable defects of the proposed START Treaty between the United States and the Soviet Union, the long and tragic record of continued Soviet negotiating deception and cheating on all existing arms control treaties must be examined.

CONFIRMED SOVIET NEGOTIATING DECEPTION

Last year, on June 19, 1991, then Russian President-elect Boris Yeltsin told a group of 72 U.S. Senators that Soviet hardliners falsified the numbers of Soviet weapons systems in arms control negotiations. Yeltsin stated to the Senators:

"In the past, the Soviet Union used false statistics in arms negotiations. This must not be repeated."

The next day, the front page, lead headline of The Washington Times stated "Soviets Lying on START, Yeltsin Says."

The Washington Post also of June 20, 1991, similarly stated:

". . . Yeltsin . . . criticized Soviet hardliners for attempting 'to cover up the true facts' about the quantity of Soviet weaponry during arms negotiations with the United States."

Press reports thus interpreted Yeltsin's statement to mean that the Soviets had falsified data in the START negotiations.

The democratically-elected leader of the Russian Federation, President Boris Yeltsin, recently made another unprecedented revelation of former Soviet "lies" in arms control negotiations. President Yeltsin made the following important revelation about former Soviet deception in arms control in his brilliant speech of June 17, 1992, to the Joint Session of the U.S. Congress.

President Yeltsin recently stated to the Joint Session of Congress:

"It is Russia that once and for all has done away with double standards in foreign policy. We are firmly resolved *not* to *lie* any more, either to our negotiating partners, or to the Russian or American or any other people.

There will be no more lies—ever.

The same applies to biological weapons experiments, and about the facts that have been revealed about American prisoners of war, the KAL-007 flight, and many other things. That list could be continued.

The archives of the KGB and the Communist Party central committee are being opened up."

President Yeltsin's two very credible admissions of Soviet untruths, data falsification, and negotiating deception in START should come as no surprise. As described in detail below, there are at least eight well documented cases of Soviet negotiating deception in START. And as noted, CIA has reportedly done a 65 page study and a National Intelligence Estimate of these Soviet START data falsifications.

In addition, on January 29, 1992, President Yeltsin admitted for the first time that the former Soviet Union had violated the Biological Weapons Convention. On February 5, 1992, Yeltsin also admitted that former Soviet leaders had even "deceived" the United States on their longstanding violations of the BW Convention.

Moreover, in addition to their many confirmed violations of arms control treaties, the Soviets have the following track record of negotiating deception in arms control treaties:

Five confirmed cases of negotiating deception in SALT I of 1972;

Six confirmed cases of negotiating deception and data falsification in SALT II of 1979; and,

Three confirmed cases of negotiating deception and data falsification in the INF Treaty of 1987.

Moreover, it is well known that the 1973-1982 MBFR negotiations could not be consummated because of deliberate, systematic Soviet data falsification.

This same problem has recurred on a massive scale in the 1990 CFE Treaty data—President Bush has confirmed that the former Soviets massively under-reported their data in the CFE Treaty.

Finally, the Chief U.S. negotiator of the INF Treaty, Ambassador Maynard Glitman, stated in March 1990, that the Soviets had engaged in:

"Deceit and mendacity both inside and outside, privately and publicly, during and after the INF negotiations."

And President Bush accused the Soviets of "bad faith" in the INF negotiations in his February 1991 Report, and again in his March 1992 Report, to the Congress on Soviet Noncompliance with Arms Control Treaties.

Thus, unfortunately, there is much independent evidence supporting Yeltsin's attack on the manifold lying and deception of the Soviet Union in the SALT I, SALT II, INF, CFE, and START negotiations.

Yeltsin's several authoritative statements confirming Soviet arms control deception has once again "let the cat out of the bag" on Soviet duplicity.

The only other Soviet political leader who has confessed Soviet deception and cheating in arms control is former Soviet Foreign Minister Eduard Schevardnadze, who actually admitted in 1989 that the Soviet Krasnoyarsk radar was a clear violation of the SALT I ABM Treaty. Schevardnadze even went on to openly concede that the Soviet political leadership under Gorbachev had flagrantly lied about their many arms violations for years.

We shall examine this evidence of Soviet "bad faith," falsification, and deception in the START negotiations in more detail below, but first we must examine the magnitude of Soviet cheating.

B. Previous Soviet arms control cheating

Tragically, despite the ten formal Presidential Reports to Congress on Soviet Noncompliance with Arms Control Treaties since 1984, the Soviets have gone right on negotiating deceptively and cheating in arms control, not only since 1984, but ever since strategic arms control began as early as 1963. This pattern of Soviet cheating in strategic arms control has thus continued to steadily expand ever since 1963.

Indeed, even nine years after the first Presidential Report to Congress on Soviet Noncompliance with Arms Control Treaties in January, 1984, there is even in 1992 still an expanding pattern of ever newer Soviet violations of all existing arms control treaties. In fact, the Soviets have recently been confirmed by President Bush himself to be expanding still their pattern of new cheating on all existing strategic arms control treaties.

C. The seventeen most serious new Soviet arms control violations

The seventeen most serious Soviet violations of existing arms control treaties are:

(1) The now confirmed Soviet covert deployment of at least 120 banned SS-23 missiles in Eastern Europe, still under Soviet command and control, which clearly violates the 1988 Intermediaterange Nuclear Forces (INF) Treaty, and which is contained in a report to Congress on September 18, 1991. President Bush confirmed that these un-declared SS-23s were a "probable violation" of the INF Treaty. President Bush repeated this "probable violation" finding for the banned SS-23s in his annual report of March 30, 1992;

(2) There is reportedly now a total of over 500 Presidentially confirmed, serious Soviet violations of the INF Treaty;

(3) U.S. Intelligence reportedly now has strong evidence that the Soviets probably have over 1,000 covert INF missiles banned by the Treaty;

(4) Several Soviet SS-20 missiles banned by the INF Treaty reportedly were detected by U.S. Intelligence satellite reconnaissance inside the Soviet Union in July, 1991, but alarmingly this reported detection occurred only weeks after all 654 SS-20s were declared by the Soviets to have been totally destroyed under the INF Treaty. Thus these several additional, banned, clearly illegal SS-20s detected have to be considered to be part of the Soviet covert SS-20 force totally banned by the INF Treaty. And there have been at least two recent press reports in early 1992 of former Soviets actually trying to sell SS-20s to the United States;

(5) The Soviets reportedly have recently converted a base previously housing banned SS-12 INF missiles into a SCUD Short Range Ballistic Missile base, without giving the U.S. the required 30 days notice, in clear violation of the INF Treaty;

(6) The U.S. has confirmed the Soviet deployment of MIG-21, MIG-23, MIG-27, and MIG-29 fighter-bombers in Cuba, all capable of delivering nuclear bombs, and this offensive weapons deployment is a serious, clear violation of the 1962 Kennedy-Khrushchev Agreement, and the 1973 Agreement on the Prevention of Nuclear War. As the recently defected Cuban Air Force General Rafael del Pino stated recently—"I can tell you that in 12 hours, Cuba can have the capability of attacking the United States with nuclear bombs. All it takes is for a plane to bring the bombs from the Soviet Union";

(7) The U.S. has reportedly detected the highly provocative covert Soviet deployment of several banned SS-20 INF missiles, under camouflage and concealment, also in Cuba, in violation of both the 1962 Kennedy-Khrushchev Agreement and the INF Treaty, and also in violation of the 1973 Agreement on the Prevention of Nuclear War;

(8) The Soviets have also deployed an SS-4 Medium Range Ballistic Missile to Cuba, identical to the SS-4s which the Soviets provocatively deployed to Cuba at the time of the October, 1962 Cuban Missile Crisis, in contradiction of the Soviet solemn promise in diplomatic channels not to consummate such a provocative deployment. But this provocative SS-4 has reportedly disappeared into newly constructed underground military tunnels in Cuba;

(9) the Soviet recalcitrance in dismantling their admitted Krasnoyarsk radar violation of the SALT I ABM Treaty, their attempt to blackmail the U.S. into further START concessions in exchange for their already-agreed dismantling of Krasnoyarsk, and the Soviet attempt to further circumvent the SALT I AMB Treaty by transferring all the components of the Krasnoyarsk radar to a new AMB radar planned to be built in Siberia at Komsomolsk, which will also violate the ABM Treaty, altogether remain a serious set of arms control violations;

(10) The Soviet expanding deployment of the long-range SAM-10 and SAM-12 Surface-to-Air-Missiles, recently confirmed by the Soviets themselves to be capable of use in the prohibited Anti-Ballistic Missile mode, especially around Moscow, also violates the SALT I ABM Treaty;

(11) The recent admissions in the Soviet military press that the nine Soviet Large Phased Array Radars are actually ABM Battle Management Radars, indicate that the Soviets have in fact illegally developed and deployed both the prohibited base, and the prohibited capability itself, for a nationwide ABM defense.

(12) The Soviets moved their new super aircraft carrier, the "Admiral Kuznetsov," out of the Black Sea in late 1991, in clearcut violation of the 1934 Montreaux Convention;

(13) The Soviets reportedly intend to begin the flight-testing soon of several new strategic missiles, which will probably violate START limits. As the CIA Director testified to Congress on February 27, 1991: "They [the Soviets] also continue to develop three additional new strategic missiles."

(14) The Soviets have clearly circumvented the CFE Treaty by moving upwards of 60,000 pieces of military equipment East of the Urals, and the Soviet Communist Party has admitted this circumvention, as we shall see.

(15) The Soviets have engaged in gross CFE data base deceptions, involving a now-confirmed deliberate under-declaration of tens of thousands of tanks, armored personnel carriers, artillery pieces, combat aircraft, and attack helicopters, in order to exclude these forces from being dismantled under the CFE Treaty. On December 24, 1991, President Bush confirmed these violations unequivocally and conclusively in a report to Congress;

(16) The Soviets re-subordinated three regular army divisions to "coastal defense," illegally after CFE Treaty signing, in order to try to exclude them from CFE limits, and the Soviets illegally attempted to raise already-agreed sublimits to gain 500 more armored personnel carriers to suppress freedom in the Baltics;

(17) And finally, former Soviet Military advisors in Iraq admitted to Western defense attaches that there were Soviet-supplied SS-12 missiles in Iraq, which were banned by the INF Treaty.

Thus the pattern of 17 serious Soviet violations of all existing arms control treaties continues to expand.

D. Soviet bad faith in arms control negotiations

Despite the serious problem of the State Department's attempt to avoid reporting the SS-23 violation, at least President Bush himself has honestly and openly admitted for the first time that the Soviets used negotiating deception on this important issue of covert SS-23s during the INF talks.

As noted, also in his February 15, 1991, Presidential Report to Congress on Soviet Noncompliance with Arms Control Treaties, President Bush stated that:

". . . [The] Soviet failure to inform the United States of the existence of SS-23 missile systems in the GDR, Czechoslovakia, and Bulgaria during the [INF] negotiations and in the interim period preceding the GDR announcement constitutes bad faith."

Moreover, as noted, the Chief U.S. Negotiator of the INF Treaty, Ambassador Maynard Glitman, reportedly stated in a March, 1990 State Department cable that the Soviets negated in:

"deceit and mendacity both inside and outside, privately and publicly, during and after the [INF] negotiations."

But it is important to note that the Senate never heard Ambassador Glitman or the State Department mention this Soviet "deficit and mendacity" at all during the ratification process on the INF Treaty.

Is it possible that some officials in the State Department also engaged in "deceit and mendacity" toward the Senate during the INF Treaty ratification process, by failing to disclose Ambassador Glitman's self-avowed frustration over Soviet INF negotiating deception?

To re-emphasize, there is now conclusive evidence that the Soviets covertly controlled all the SS-23 missiles in Eastern European countries, and further, that the Soviets also covertly controlled all the Soviet nuclear warheads for these covert Soviet SS-23 missiles.

Moreover, there is also strong evidence that the Soviets have illegally deployed SS-20 missiles banned by the INF Treaty covertly inside the USSR, and also covertly in Cuba.

If the Soviets negotiated in "bad faith" on the INF Treaty and the CFE Treaty, as President Bush and his chief INF and CFE negotiators have themselves both confirmed, then it is reasonable to ask whether the Soviets have also negotiated in "bad faith" on the START Treaty.

Have the Soviets been deceptive in CFE and START talks?

Unfortunately, the answer is yes, the Soviets have in fact continued to negotiate in bad faith in both the CFE Treaty, signed by 22 nations on November 19, 1990, and in the ongoing START negotiations. As noted, Russian President Yeltsin has recently admitted this Soviet negotiating deception in INF, CFE, and START negotiations again for a second time.

And as we shall see below in much more detail, there are also at least eight reported serious cases of Soviet "bad faith" negotiating deception in the START negotiations.

Thus how can the United States sign and ratify a START Treaty if the Soviets are still clearly engaged in *admitted* "bad faith," violations, and deceptive negotiations regarding both the predecessor INF and the CFE Treaties, and the especially serious duplicity in the START negotiations?

G. INF, CFE Violations and Krasnoyarsk

These new Soviet arms control treaty violations include the ever more serious and more numerous Soviet violations of the four year old INF Treaty, and the gross Soviet deception and even violation in the signed CFE Treaty.

Moreover, after repeated Soviet pledges to fully dismantle their admittedly illegal Krasnoyarsk radar, the Soviets are still stalling and reneging. The Soviets have missed two agreed deadlines on dismantling Krasnoyarsk, and recently they announced that they are replacing Krasnoyarsk with a new radar at Komsomolsk in the Far East. They seem to be planning to transport and re-use all of the dismantled components of Krasnoyarsk for their planned new Komsomolsk radar. But, unfortunately, the new Komsomolsk radar may also violate the SALT I ABM Treaty, by also having most of its coverage over Soviet territory.

And the Soviets seemed to use their pledges to dismantle Krasnoyarsk as bargaining leverage in the START negotiations—they will not finish the Krasnoyarsk dismantling unless the United States agrees to further concessions in START. Now the former Soviets have achieved U.S. agreement to allow the 40% intact Krasnoyarsk radar to be maintained as a "furniture factory."

But why should the U.S. have to pay any price at all in START in order for the Soviets to correct their longstanding and admitted cheating on the SALT I ABM Treaty?

As an example of the magnitude of Soviet cheating, there are now over 500 serious Soviet violations of the INF Treaty, and there seem to be more each year, such as a now confirmed total of over 1,000 Soviet covert INF missiles banned by the Treaty.

This ever expanding pattern of confirmed and new Soviet arms control cheating and "bad faith" should preclude the signing of any new arms control treaties. Indeed, despite covering up the serious Soviet SS-23 INF violations, the State Department wisely delayed presenting the already-signed CFE Treaty to the Senate until mid-July, 1991, due to the confirmed Soviet CFE data base deception, and to the Soviet attempts to irreversibly defeat the object and purpose of the CFE Treaty by means of their re-subordination of the three divisions, and finally because of the successful Soviet attempt to raise already-agreed sublimits so that they could get 500 more armored personnel carriers in order to suppress freedom in the Baltic States.

And as theoretical, ideological journal of the Communist Party of the Soviet Union, Kommunist, stated in 1991, the movement of vast amounts of weaponry beyond the Urals subverts the CFE agreement by maintaining Soviet advantages in conventional forces. U.S. CFE negotiator Woolsey has even called this "fraud."

The Kommunist statement is a remarkable Soviet admission that they have already circumvented the pending CFE Treaty, and have indeed engaged in fraud.

II. SUMMARY OF START'S TEN FATAL FLAWS

A. START's fundamental inequality

A preliminary analysis of the provisions of the proposed START Treaty suggests that START will have essentially the same basic "fatal flaws" as it predecessor strategic arms control treaties—the Strategic Arms Limitation Treaties—SALT I and SALT II—primarily unequal levels of forces favoring the Soviet Union.

Thus unequal U.S. and Soviet strategic forces under START, as codified in the 1972 SALT I Treaty and Agreement, and in the unratified 1979 SALT II Treaty, will result in the perpetuation of the existing and longstanding Soviet strategic superiority over the United States.

The Soviets have already preserved and expanded their existing and longstanding strategic superiority through SALT I and II.

This Soviet strategic nuclear superiority is documented in the attached official DOD graphics and summaries illustrating the growth of Soviet strategic superiority since SALT negotiations began in 1969.

President Bush stated in September, 1989 that the Soviets were modernizing their strategic forces "at a furious pace."

Defense Secretary Cheney also stated in July, 1990, that: ". . . the Soviet Union is still embarked on a deliberate and vigorous modernization of its strategic nuclear forces. Kommunist, the ideological journal of the Soviet Communist Party, reportedly stated the following in its 1991 number #6 edition:

"The Soviet Defense Ministry is planning to increase military spending despite the changing international climate and the Soviet Union's economic problems . . . Defense spending will rise in 1991 from 26% to 36% of the All-Union budget, [while] the military leadership has purposely ignored planned military and force reductions in the West."

This authoritative statement supports President Bush's assessment on the "furious pace" of the "deliberate and vigorous" Soviet strategic build up.

Moreover, the Soviet Union still has more than a 3 to 2 advantage over the United States in the number of intercontinental missiles and bombers, and also in the number of nuclear warheads loaded on these strategic nuclear delivery vehicles.

Even more significantly, the Soviets also have a 6 to 1 advantage in nuclear first strike potential, together with a total monopoly on strategic defenses.

Finally, the former Soviets still have operationally available over 3,000 Strategic Nuclear Delivery Vehicles (intercontinental missiles and bombers), carrying over 13,600 nuclear warheads, compared to less than only 1,831 U.S. Strategic Nuclear Delivery Vehicles, carrying less than only about 9,700 nuclear warheads. (See charts.)

[Charts not reproducible in the RECORD.]

Former Soviet President Gorbachev was thus continuing to commandeer the scarce resources of the Soviet Union and con-

centrate them in the military sector of the Soviet economy. Gorbachev's decision to continue to devote about 25 percent of the Soviet Gross National Product to the military has nearly bankrupted his country. But as a result of this military priority, Gorbachev achieved military superiority over the West.

Gorbachev was trying to use the former Soviet military superiority, especially his advantages in strategic forces, to blackmail or leverage the West into providing economic subsidies to the Soviet Union.

B. Existing and growing Soviet strategic superiority leads to explicit Soviet nuclear blackmail threats

Thus Soviet strategic superiority and the consequent growth of Soviet nuclear blackmail capabilities have naturally forced continued U.S. negotiating concessions in ongong strategic arms negotiatons—first in SALT I, then SALT II, and finally START. There was clearly an element of Soviet nuclear "blackmail" involved in the START endgame negotiations.

[From ICBM Education Bureau, Reston, VA]

SOVIET STRATEGIC MODERNIZATION CONTINUES: AS SOVIET CONVENTIONAL FORCES SHRINK, SOVIET STRATEGIC CAPABILITIES ARE INCREASING

SINCE 1985. . .

Deployment of 60 BEAR H Strategic Bombers with AS-15 Long-range ALCMs Current Deployment: 85 Aircraft.

Deployment of 21 BLACKJACK Strategic Bombers Current Deployment: 21 Aircraft.

Deployment of 3 TYPHOON SSBNs with SS-N-20 SLBMs Current Deployment: 6 SSBNs.

Deployment of 5 DELTA IV SSBNs with SS-N-23 SLBMs Current Deployment: 7 SSBNs

Despite recent drawdowns in the size of Soviet conventional forces in 1990, the U.S.S.R. continues to improve its strategic offensive forces. Since Mikhail Gorbachev came to power in March 1985, Soviet strategic modernization has proceeded unabated.

In recent months, Mikhail Gorbachev has realigned himself with the hard-line military leadership in the U.S.S.R. With the resignation of Soviet Foreign Minister Edvard Shevardnadze in December 1990, the Soviet military has increased its influence in the arms control process, jeopardizing the completion of a START treaty.

SOVIET OFFENSIVE AND DEFENSIVE STRATEGIC FORCE MODERNIZATION

Soviet offensive force modernization

Despite improved relations with the United States, potential arms control agreements, and the dissolution of the Warsaw Pact, the Soviet Union is continuing to streamline and improve its offensive strategic nuclear force. While the pace is not as rapid as previous modernization programs of the 1970s and early 1980s (due in part to anticipation of a strategic arms reduction treaty and in part to the weakness of the Soviet economy), it is still very clear that the Soviets are firmly committed to producing a nuclear force that is far more modern, mobile, and lethal.

Like our own strategic force, the Soviet strategic nuclear force is built on a Triad of intercontinental ballistic missiles, submarine launched ballistic missiles, and long range, intercontinental bombers. Each leg of the Triad is benefiting from the strategic modernization program.

Intercontinental ballistic missile

The ICBM component has historically been the strongest element of the Soviet Triad. Almost 1400 ICBMs, many of them with multiple warheads, are deployed at roughly two dozen locations across the Soviet Union. In terms of sheer megatonnage, an important measure of strategic force destructive power, the Soviets have had a nearly two-to-one advantage over the U.S. since 1975.

This first chart shows that the Soviets have significant superiority in each category of deployed Strategic Nuclear Delivery Vehicles:

[Charts not reproducible in the RECORD.]

The Soviets have over 1,500 ICBMs, compared to only 1,000 for the United States;

The Soviets have over 924 Submarine-Launched Ballistic Missiles, compared to only 616 for the United States;

The Soviets have over 575 intercontinental strategic bombers, compared to only 215 for the United States.

This second chart shows that the Soviets have over 6,600 nuclear warheads on Inter-Continental Ballistic Missiles, compared to only 2,150 for the United States. This is the best measure of first strike capability, especially when compared to hard targets.

The U.S. has only about 1,200 strategic hard targets, yet the Soviets have about a 6 to 1 ratio of ICBM nuclear warheads against this hard target set—this clearly indicates a strong Soviet first strike capability superiority of about 6 to 1.

The bottom chart clearly indicates that the Soviets have been able to more than quadruple their number of nuclear warheads since SALT I in 1972. This means that strategic arms control to date has not succeeded in limiting Soviet nuclear warheads. But U.S. nuclear warheads have clearly been limited under strategic arms control agreements to date, and have remained static at the current level of about 9,600 since 1976.

This chart shows that there is no "arms race," because the United States has not been keeping up.

Since 1960, the Soviets have deployed 47 new strategic systems, compared to only 22 for the U.S.

Analysis of DIA June 1991 De-classified Chart on Soviet versus U.S. ICBM Production During the Gorbachev Era.

This chart shows that over the 1985-1990 six year period of Gorbachev's term in power, the Soviets have produced at least 715 ICBMs, compared to the U.S. total ICBM production of only 68 ICBMs, or about over a 7 to 1 ratio of Soviet advantage.

The Deputy Commander of the Soviet Strategic Rocket Forces, Col. General Ryazhskikh, stated recently:

"We are increasing the survivability of existing missiles and command and control systems. We are increasing the number of mobile launchers . . . As a result, the rocket forces should become mobile and reliably protected from attack."

U.S. Defense Secretary Cheney stated the following in July, 1990:

"Despite reductions in Soviet conventional forces, the Soviet Union continues to modernize its strategic offensive and defensive forces. The Soviet leadership has repeatedly stated its commitment to strategic modernization and President Gorbachev has taken steps to improve the Kremlin's nuclear forces and strategic defense capability . . . The Soviet Union is still embarked on a deliberate and vigorous modernization of its strategic nuclear forces."

Analysis of DIA June 1991 De-classified Chart on Soviet versus U.S. Bomber Production During the Gorbachev Era.

This chart shows that the Soviets have produced over 140 bombers during the period of 1989 and 1990, compared by only 1 U.S. bomber produced in this same period.

This is a ratio of bombers produced over the last two years of 140 Soviet bombers produced, to only 1 U.S. bomber produced.

Over the entire 1985-1990 period of Gorbachev's rule, the Soviets have produced 450 bombers, compared to only 104 for the U.S.

Analysis of DIA June 1991 De-classified Chart on Soviet versus U.S. Submarine Production During the Gorbachev Era.

This chart shows that the Soviets have produced 54 submarines during the Gorbachev era, compared to 23 for the U.S. in the same period.

Analysis of DIA June 1991 Declassified Chart on Soviet versus U.S. Submarine Launched Ballistic Missile Production During the Gorbachev Era.

This chart shows that the Soviet have produced 490 SLBMs during the Gorbachev era, compared to only 205 for the U.S. in the same period.

This chart is all the more significant because of the fact that the new U.S. Trident II submarine and SLBM program is the *only* U.S. strategic program in current deployment, and yet the Soviets are even ahead in this area.

Analysis of DIA June 1991 Declassified Chart on Soviet versus U.S. Short Range Ballistic Missile Production During the Gorbachev Era

This chart shows that the Soviets have produced at least 3,900 total Short Range Ballistic Missiles (SRBMs) during the Gorbachev era, compared to 0 (zero) for the U.S.

The following five charts, from the 1986 Soviet Threat briefing book published by the U.S. Air Force Strategic Air Command, are self explanatory.

ICBM reconstitution/refire

Contingency plans to reconstitute ICBMs, underscores nuclear war-fighting capability and preparations for protracted nuclear warfare.

The Soviets do have contingency plans to deliver reserve missiles, warheads, and propellants to surviving silos to reconstitute their ICBM force in order to regain their strategic advantage in the post-war period. The U.S. philosophy has always been 'one missile for one silo'; as our silos are not designed to be reloaded.

U.S./U.S.S.R. strategic weapons

A comparsion of U.S. and Soviet weapons introduced since 1970 and projected into the 1990s shows the continued Soviet momentum. In the 1970s, the U.S. introduced the Trident I SLBM while Moscow deployed 10 new weapon systems. The Minuteman III ICBM was introduced 15 years ago. Our bombers date back to the 1950s and 60s. The lead unit of the Trident-class submarine was our first SSBN launched inover 15 years.

With the B-1, Peacekeeper, Trident, ALCM, and these future systems, the U.S. is moving to ensure future deterrence. We have no plans to match the Soviet one-for-one; rather our goal is to maintain a credible nuclear deterrent to reduce the risk of nuclear war and to encourage the Soviets to come to the negotiating table to bargain in earnest.

Moscow has long blamed the U.S. for fueling the arms race because 'we develop new weapon systems . . . weapon systems that the Soviets must then also develop simply to keep up with us.' The fact of the matter is that the Soviets have not only matched the U.S. weapon-for-weapon but they develop and deploy far more weapons than the U.S.

The resulting U.S. concession have clearly helped the Soviets to achieve ever greater Soviet strategic superiority, which naturally will again be re-codified in START.

Thus START will once again increase Soviet strategic superiority, as SALT I and II did before it.

The fact that the Soviets use nuclear blackmail is well known, but is not worthy of mention in "politically correct" circles.

For example, just before the December 7, 1987, U.S.-Soviet Summit meeting in Washington to sign the INF Treaty, Gorbachev ordered the firing of 2 Soviet super-extra-heavy SS-26 first strike ICBMs toward Pearl Harbor, Hawaii. This provocative demonstration of Soviet first strike capability clearly aimed at U.S. territory was obviously an exercise of Soviet nuclear blackmail. That was why some observes named the December 7, 1987, Summit the "Pearl Harbor" Summit. (See State Department unclassified analysis of this activity, attached.)

Here is another good example of Soviet nuclear blackmail threats in action.

On April 5, 1991, in a Moscow interview published in the London New Statesman and Society, Soviet Army Colonel Viktor Alksnis, a member of the Supreme Soviet, stated:

"The West is not aware of what danger the Soviet Union poses for it now—even more than in Stalin's time. If civil war here is unavoidable, it will involve nuclear arms, and weapons of mass destruction. Yes, we shall perish, but we shall take the whole world to the grave. You will perish with us. There will be no borders. The conflict will splash over them, first into neighboring countries and then into a world catastrophe. When some people in the West rejoice at the collapse of the 'the last empire,' they are seriously mistaken. You ought to be interested in preserving the USSR, and securing its internal stability."

Colonel Alksnis is a spokesman for the hardline, traditionalist "Soyuz" or Union group, of solid reactionaries to "perestroika and glasnost" in the Supreme Soviet.

But he must be taken seriously, because Colonel Alksnis is "the boy in Colonel's epaulettes" whom Eduard Shevardnadze himself personally attacked in his emotional Supreme Soviet speech in late December, 1990, when he resigned as Foreign Minister.

What is much more significant is the fact that Soviet President Gorbachev said almost the same thing as Colonel Alksnis. In Gorbachev's June, 1991, speech in Oslo, Norway, accepting the Nobel Peace Prize, Gorbachev stated that the West must aid the Soviet economy unconditionally, and that the Soviet Union would not accept any restrictions on the terms of the foreign aid that it accepted.

More explicitly, Gorbachev stated in his speech that the Soviet Union sincerely wants to join the family of nations, but the West will have to pay. If the West does not pay, and Gorbachev's "perestroika" fails, "The prospect of entering a new, peaceful period in history will vanish, at least for the foreseeable future." But the Western tribute money to the USSR must have no strings attached. It would be "futile and dangerous" for the Western lenders to set conditions on their tribute money.

This was, of course, Gorbachev's language of extortion and nuclear blackmail, not the language of peace.

Therefore, it is clear that the former Soviets naturally are using their nuclear superiority to engage in nuclear blackmail—the West must send blackmail payments—economic aid, financial loans, "investments," trade credits, agricultural aid, subsidies, and advanced technology, as the required, equitable financial tribute to Moscow that a superior military power demands from inferior military powers in recognition of its supremacy, in order for the West to avoid nuclear destruction.

This nuclear blackmail attempt by the former Soviets is, in fact, clearly overt, as several U.S. Senators from both parties have already publicly recognized, and Soviet nuclear blackmail is clearly the main reason that Gorbachev was invited to the Western "Economic Summit" in mid-July, 1991, in London, and that Russian President Yeltsin was invited to Washington on June 15, 1992.

As Soviet Marshal O. Losik boldly stated recently:

". . . The Soviet Union in the future is going to have to rely much more heavily on its nuclear capability."

This boastful statement is an ominous reinforcement to Soviet nuclear blackmail threats, and its suggests either that the Soviet military did not want to sign START, as advantageous as it is to the Soviets, or that they will cheat on this otherwise advantageous treaty now that they have signed. Indeed, as noted, given the magnitude of U.S. unilateral disarmament detailed below, the former Soviets need not themselves comply with START, because the U.S. is already structuring its forces as if START was already ratified and fully in force.

C. The ten fatal flaws of START

The ten main defects or "fatal flaws" of the proposed START Treaty all enhance existing and longstanding Soviet strategic superiority.

The ten main fatal flaws of START can be listed as follows:

(1) START will fully legalize six Soviet heavy, extra-heavy, supra-extra-heavy, and mobile missiles, each of which violated SALT I and SALT II, giving the Soviets enormous military advantages.

(2) With START, the Soviets will achieve a significant bonus in total nuclear warheads, because of U.S. concessionary agreements allowing warhead "discounting" and "downloading"—seriously undercounting Soviet missile and bomber warhead loadings.

(3) With START, the Soviets also get another significant bonus from allowed "nondeployed," stockpiled strategic reserve forces that do not count.

(4) The Soviets thus can legally have over twice as many warheads under START as START ostensibly allows.

(5) This means that the Soviets also can have over twice as many warheads under START as the U.S. can have under START, which means START clearly codifies unequal levels of forces.

(6) In addition, the Soviets are allowed significant covert forces capabilities above their doubling of their allowed START level.

(7) The Soviets will thus actually be able to maintain several thousand covert force warheads above their already more than double START level.

(8) In addition, START will more than double the existing overwhelming Soviet first strike advantage.

(9) START will also allow further Soviet modernization of their forces to even further enhance their first strike advantage.

(10) Finally, START will not be effectively verifiable, the Soviets have engaged in significant negotiating deception and data falsification in START, and U.S. intelligence knows that the Soviets have cheated and will continue to cheat in START. (End Summary.)

III. DISCUSSION AND DETAILS OF THE TEN FATAL FLAWS OF START

Let us examine each of these ten fatal flaws of START in order of importance, and in more detail:

(1) START will fully legalize six Soviet heavy, extra-heavy, supra-extra-heavy, and mobile missiles, each of which violated SALT I and SALT II, giving the Soviets enormous military advantages.

A. The illegal SS-19

By means of top-level Soviet negotiating deception perpetrated in May, 1972, by the late Soviet leader Leonid Brezhnev himself, the Soviet heavy SS-19 Inter-Continental Ballistic Missile (ICBM) replaced the light SS-11 ICBM, contrary to SALT I's Article II prohibition on such replacement.

This top level Soviet deception was revealed by sensitive communications intelligence intercepts long ago declassified—U.S. Intelligence listened in on the secret radio-telephone conversations from Soviet leader Brezhnev in his limosine to his military leaders during the SALT I Summit in Moscow on May 26, 1972. It is the best evidence of top-level Soviet intentions in arms control negotiations and compliance.

Later in the 1970s, U.S. Intelligence acquired similar evidence that the Soviet SS-19 ICBM was a "heavy ICBM" according to SALT I standards.

Thus in 1983 the Soviet heavy SS-19 ICBM was judged by the President's General Advisory Committee on Arms Control to have defeated the object and purpose of SALT I, by being a heavy ICBM replacing a light ICBM, in contradiction of SALT I's Article II. And U.S. Intelligence finally discovered in 1991 that the Soviet SS-19 ICBM had always had a throw-weight even heavier than the SALT II definition of light ICBMs, based in turn upon the erroneous U.S. Intelligence estimate of the SS-19's throw-weight in early 1979, at the time that SALT II was signed, establishing the SALT II threshold between light and heavy ICBMs. In their START MOU on data, the Soviets declared that the SS-19 had a heavier launch-weight and a heavier throw-weight than the U.S. stated in 1979 would be allowed in SALT II.

Thus the SS-19 is clearly also a heavy ICBM violating the SALT II constraints on heavy ICBMs.

B. The illegal SS-24

According to the Soviet START MOU data declaration, the Soviet SS-24 extra-heavy ICBM has launch-weight greater than U.S. Intelligence's original 1979 estimate of the SS-19's launch-weight, and therefore the SS-24 violates the SALT II heavy missile limit.

C. The illegal SS-N-23

Likewise, the Soviet extra-heavy SS-N-23 SLBM has heavier throw-weight than allowed by SALT II.

D. The illegal SS-26

And the Soviet super-extra-heavy SS-26 (also known as the "SS-18 Mod 5") ICBM was reported by U.S. Intelligence to have been developed, flight-tested, and deployed in violation of SALT II as well.

The SS-26 violated the SALT II prohibition on any increase whatsoever in the throw-weight of Soviet heavy missiles, and because this throw-weight increase is at least 10 to 20 percent, it even exceeds the 5 percent throw-weight increase allowed by SALT II before being classed as a new type missile.

Thus the SS-26 is both an illegal heavy and also an illegal new type missile, both developed since the mid-1970s and tested in early 1986, while the USSR still had a political

commitment to comply with SALT II. Moreover, it was flight-tested with illegal telemetry encryption. (See detailed discussion of SS-26 below.)

But due to major American negotiating concessions, all four of these illegal heavy, extra-heavy, and super-extra-heavy missiles, which violated SALT I and SALT II—the SS-19, SS-24, SS-N-23, and SS-26—will be totally legal under START, thereby greatly increasing already existing Soviet advantages in first-strike, counterforce capabilities.

E. The illegal SS-25

In addition, the Soviet SS-25 light, mobile ICBM clearly violated SALT II in many ways, but it too will be made fully legal under START.

F. The illegal SS-16

And the Soviet SS-26 light, mobile ICBM also "probably" violated SALT II in several ways, but it too will be fully legal under START.

There are thus a total of six Soviet missiles which have been officially judged to have violated SALT I or SALT II or both (in the case of the the SS-19), but which will be legalized by START.

G. Summary of the violations of the six illegal Soviet missiles

To summarize in detail the SALT illegalities of these 6 Soviet missiles:

1. The Soviet heavy SS-19 ICBM replaced the light SS-11, defeating the object and purpose of SALT I; the SS-19's actually observed throw-weight is also heavier than the U.S.-proposed and Soviet-agreed SALT II heavy ICBM throw-weight threshold (based on the U.S. 1979 estimate for the SS-19's throw-weight) which defined the heavy ICBM threshold in SALT II, and thus the SS-19 also violated SALT II's heavy ICBM limits;

2. The Soviet extra-heavy SS-24 ICBM clearly had launch-weight and throw-weight heavier than that of the SS-19 as estimated in 1979, and therefore violated the SALT II limits on heavy ICBMs, and also violated the prohibition on the encryption of telemetry, and finally it violated the prohibition on the concealment of the relationship between the rail-mobile SS-24 launcher and its missile;

3. The Soviet extra-heavy SS-N-23 SLBM had throw-weight heavier than the SS-19, and therefore it too violated the SALT II limits on no heavy or new type heavy SLBMs, as well as violating the prohibition on telemetry encryption;

4. The Soviet super-extra-heavy SS-26 ICBM violated the SALT II limits on heavy and new type ICBMs, as well as violating the prohibition on telemetry encryption;

5. The Soviet light, mobile SS-25 ICBM clearly violated SALT II limits on new type ICBMs, encryption of telemetry, the RV to throw-weight ratio constraint, and the prohibition on the concealment of the relationship between the launcher and its missile;

6. The Soviet light, mobile SS-16 ICBM "probably" violated the overall SALT II constraint on total missile launchers and bombers, or Strategic Nuclear Delivery Vehicles, because the Soviets failed to disclose in 1979 that they had deployed at least 50 and as many as 200 SS-16 mobile ICBMs. Moreover, the illegal and undeclared 1979 deployment of the mobile SS-16 ICBM was illegally camouflaged and concealed, and the relationship between the road-mobile SS-16 launcher and its missile was also illegally concealed.

But to re-emphasize, SALT will fully legalize all 6 of these missiles, each of which was clearly illegal under the previous SALT I and SALT II arms control treaties.

(2) With SALT, the Soviets will achieve a significant bonus in total nuclear warheads, because of U.S. concessionary agreements allowing the serious under-counting of Soviet missile and bomber warhead loadings.

The proposed SALT Treaty ostensibly allows only 1,600 Strategic Nuclear Delivery Vehicles (SNDVs)—ICBM launchers, SLBM launchers, and long-range bombers, carrying a total of only 6,000 nuclear warheads, on each side.

But under START, the Soviets can actually have, with complete legality, about 6,000 extra nuclear warheads for their ICBMs, SLBMs, and long-range bombers, above the START warhead level of 6,000 on each side.

This Soviet warhead bonus of over 6,000 extra warheads arises quite simply because the Soviets, using deceptive arguments, have secured U.S. agreement to seriously undercount their number of warheads carried on several types of Soviet ICBMs, SLBMs, and long-range bombers.

Specifically, according to official, unclassified information, Soviet SS-18 and SS-26 class ICBMs are under-counted by about 1,232 warheads, Soviet SS-N-18 nd SS-N-23 SLBMs are under-counted by a total of about 1,664 warheads, and Soviet Blackjack and Bear H Air-Launched Cruise Missile (ALCM)-carrying bombers are also under-counted by a total of about 2,136 warheads.

This allowed bomber "discounting" and missile "down-loading" is because:

Soviet deception has induced the U.S. to agree that each of the SS-18/SS-26 class ICBMs, are counted as carrying 10 warheads, but each actually carries at least four more, or 14 RVs;

Soviet deception has sustained the argument that each SS-N-18 SLBM should be counted as carrying 3 warheads, but each actually carries four more, or 7 RVs;

Soviet deception has induced the U.S. to agree that each SS-N-23 SLBM is counted as carrying 4 warheads, but each actually carries six more, or 10 RVs, and;

Soviet deception has induced the U.S. to agree that each of the Bear H and Blackjack bombers are counted as carryng 8 ALCMs. but each actually is reportedly capable of carrying 10 more, or 18 Air-Launched Cruise Missile warheads.

This under-counting thus results in a total Soviet START missile and bomber warhead under-counting of about 6,000 nuclear warheads.

When these approximately 6,000 totally legal, bonus, extra warheads are added to the 6,000 warhead START ceiling, the Soviets will have an actual total of about 12,000 warheads.

Thus under START, the Soviets can quite legally have at least about 12,000 nuclear warheads. But as we shall see, they can and will have even still more.

This official, unclassified conclusion was first published by the Committee on Armed Services of the United States House of Representatives, chaired by Congressman Les Aspin, Democrat of Wisconsin, in July, 1988.

The House Armed Services Committee report was entitled Breakout, Verification and Force Structure: Dealing With the Full Implications of START.

This excellent House report concluded on page 5:

"In summary, the purported START limit of 6,000 weapons is an illusion. In addition to the limit of 6,000 weapons, the Soviets could 'legally'—and are likely to—deploy another nearly 3,000 weapons, and could 'legally' have available nearly 11,000 additional weapons that are a source for a sudden breakout from START. And, according to that rough yardstick of potential cheating, there could be an additional force of as many as 4,300 more weapons available to the Soviet attack planner."

This important conclusion that the former Soviets could have as many as 15,300 nuclear warheads fully legally under START will be elaborated below in more detail, but attached is the graphic from the July, 1988 House Armed Services Committee Report showing Soviet legal and excess "break-out" warheads under START.

A. Evidence that SS-18 class carries 14 warheads

U.S. Intelligence reportedly has long had evidence that the Soviet SS-18 class is designed to carry 14 warheads, not the 10 that will be counted in START.

First, the SS-18 has reportedly been flight-tested several times in which 10 actual warheads were released, but there were reportedly simulations of the release of 2 more warheads. The simulations of 2 stations were reportedly from different sets of additional stations.

In sum, these simulations showed that the SS-18 could release up to 4 more warheads from 4 more stations, in addition to the 10 warheads actually released. This indicated that the SS-18 class had 14 stations capable of carrying 14 warheads.

Moreover, the U.S. was reportedly allowed to actually inspect a Soviet SS-18 post-boost-vehicle in November, 1990, in a trial START on-site inspection, and from this on-site inspection we reportedly observed that there actually were 14 stations for 14 warheads on an SS-18 class ICBM.

In sum, there is extensive hard evidence that each missile in the Soviet SS-18/SS-26 class of super-extra-heavy ICBMs carries 14 warheads, not the 10 that would be counted under START, and that President Bush and Secretary of State Baker both have direct knowledge of this fact. But the U.S. has nevertheless agreed to this Soviet counting-rule ruse by accepting deceptive Soviet assurances that only 10 warheads are deployed on each SS-18.

(3) With START, the Soviets also get another significant bonus from allowed stockpiled strategic reserve forces that do not count.

U.S. Intelligence has long had strong evidence that the Soviets produce at least 3 strategic missiles for every launcher, and in most types of strategic missile classes, they produce 5 missiles for every launcher. Most of these extra missiles are stockpiled for reload and refire, as well as for reliability and flight testing. Indeed, the START Treaty itself allows 18 training, rail-mobile launchers for a total of 125 "Non-deployed" SS-24 ICBMs, a ratio of over 6 missiles to each launcher.

This ratio of about 5 missiles produced to launchers deployed was true for most of the missiles covered by the SALT I and SALT II agreements, and also the INF Treaty. Moreover, we know that the Soviets made many false data declarations during the SALT I, SALT II, and INF negotiations, in order to preserve significant covert, stockpiled missile forces.

For example, we know that the Soviets have covertly preserved a total of at least 1,000 banned INF missiles outside of their declarations under the INF Treaty.

Thus under START, the Soviets will probably also produce at least 5 missiles for every accountable launcher, which will be the basis for the Soviet covert START missile force.

Thus under START, the Soviets can also legally keep over about several thousand more extra warheads on thousands of ICBMs,

SLBMs, and intercontinental bombers that are in the allowed but uncounted categories of being either "retired," "non-deployed," "obsolete," "in-operable," or already stockpiled.

For example, under START the Soviets will be allowed to keep 125 extra SS-24 "non-deployed" rail-mobile ICBMs that will not be counted in their START ceilings. This could give the Soviets 1,250 extra, uncounted, legal, bonus warheads, which is almost half of the approximately 3,000 warheads that the former Soviets allegedly may have to "reduce" under START's ostensible 30 percent warhead reduction.

Also under START, the Soviets will be able to keep 125 more uncounted, "non-deployed" SS-25, road-mobile ICBMs, which is at least 125 more stockpiled warheads.

Moreover, about 100 older Bear bomber variants, about 100 naval Bear bombers, and about 50 old Bison refueling tankers will also be explicitly excluded from the Soviet START ceilings, again with a significant strategic reserve force intercontinental bombing capability.

In sum, we know that the Soviets probably produced about 5 strategic missiles for each launcher counted under the START limits, but most of these extra missiles intended for reload and refire will not be counted under START. They will remain as a strategic reserve force, legally excluded from the Soviet START ceilings.

All of these categories of stockpiled and reload/refire Soviet missiles and bombers are thus excluded from counting in the Soviet START force totals, due to further U.S. concessions, even though we know that the Soviets intend to maintain a very significant number of stockpiled and reload/refire START missiles.

This bonus gives the Soviets another approximately 3,000 or even more totally legal extra warheads, which are strategic reserve forces.

Therefore, when we add the about 12,000 warheads that the Soviets already quite legally will retain to these about 3,000 also equally legal, excluded strategic reserve force warheads, the Soviets will have at least about 15,000 totally legal warheads.

Thus the Soviets can quite legally have over about a total of 15,000 nuclear warheads under START.

(4) The Soviets thus can legally have well over twice as many warheads under START as START ostensibly allows.

Therefore under START, the Soviets can legally more than double the 6,000 warheads they are ostensibly allowed under START, to give them at least over 15,300 warheads, without even cheating or maintaining covert forces, merely due to multiple U.S. concessions allowing the Soviets significant advantages in missile and bomber and warhead counting rules, and allowing a significant uncounted strategic reserve force of missiles and bombers.

These U.S. START counting rule concessions have thus allowed the Soviets to legally exclude a large force of extra, bonus warheads or strategic reserve reload/refire missiles and bombers carrying at least about 9,000 warheads.

Thus with allowed total of about 15,300 warheads, the Soviets can thereby legally have over twice their legal allocation.

(5) This means that the Soviets also can have over twice as many warheads under START as the U.S. can have under START, which means START clearly codifies unequal levels of forces.

START thus clearly entails unequal levels of forces between the United States and the Soviet Union.

Under START, the Soviets can thus have more than 15,300 totally legal nuclear warheads, in two categories—uncounted extra, "nondeployed," bonus warheads, and also uncounted strategic reserve force covert warheads. But under START, the United States can have only at most 6,000 warheads.

Moreover, due to U.S. strategic program decisions already made, resulting in U.S. unilateral strategic disarmament, the U.S. actually plans to have only about 4,700 warheads under START, and we appear to be complying with START even now, as if START were fully in force already. The Soviets clearly already know that the U.S. is engaged in unilateral disarmament.

Thus START explicitly codifies over a 3 to 1 numerical advantage in the key strategic measure—number of warheads—for the Soviets—in clear violation of the Jackson Amendment to SALT I.

But the SALT I Jackson Amendment legally requires equal levels of U.S. and Soviet strategic forces under START.

A. U.S. unilateral nuclear disarmament

As noted, the U.S. is behaving as if a START Treaty were already ratified and fully in force. We are planning to conform our strategic force structure strictly even now to START, as if START was already signed, given advice and consent for Presidential ratification by two thirds of the Senate, and already ratified by the President and entered into force. This is clearly U.S. unilateral disarmament.

In contrast, the Soviets are continuing their relentless strategic force buildup well beyond START limits. As President Bush stated in September, 1989, the Soviet Union is modernizing its strategic forces "at a furious pace."

The Soviets are producing annually hundreds of: 3 new types of ICBMs; 3 new types of intercontinental bombers; 2 new types of strategic ballistic missile submarines; and 3 new types of SLBMs.

Moreover, the Soviets are developing follow-ons to all of these systems, some of which are about to be flight-tested for the first time soon.

The magnitude of U.S. unilateral disarmament, compared to the existing Soviet strategic superiority and to the continuing superior Soviet strategic buildup, is as follows:

(1) The U.S. is accelerating the unilateral dismantling of at least 75 Minuteman II ICBMs, while in contrast, the Soviets are accelerating the deployment annually of several hundreds of three new types of ICBMs. According to recently declassified data from the DIA, since Gorbachev came to power, the Soviets have produced 715 ICBMs, compared to only 68 ICBMs for the U.S.;

(2) The U.S. is continuing and accelerating the unilateral dismantling of 11 Poseidon ballistic missile submarines carrying 176 Poseidon C-3 SLBMs, while in contrast, the Soviets are converting most of their comparable Yankee Class ballistic missile submarines into cruise missile submarines with an equal or even greater threat value than the original ballistic missile submarines;

(3) The U.S. is unilaterally closing down the production line for the vital MX ICBM, the only existing ICBM production line in the Free World, while in contrast, the Soviets are mass producing several hundreds of three types of new ICBMs each year at three active ICBM production lines;

(4) The U.S. is unilaterally "moth-balling" and deferring indefinitely the development and deployment of the MX ICBM in the rail-garrison mode, as well as cancelling the development and eventual deployment of the road mobile Midgetman small ICBM, while in contrast, the Soviets are deploying up to 600 or more launchers of two new types of mobile ICBMs, and are developing and are about to flight-test even newer follow-ons to their SS-24, SS-25, SS-26 ICBMs, and also to their SS-N-20 SLBM;

(5) The U.S. is continuing the unilateral dismantling of many B-52 bombers, while the Soviets have three open production lines for producing hundreds of the intercontinental Backfire, Bear H, and Blackjack bombers. For example, in the period 1989-1990, the Soviets produced 140 intercontinental bombers, while the U.S. produced only 1 intercontinental bomber, according to recently declassified data from the DIA. During the entire period of Gorbachev's 1985 to 1990 rule, the Soviets have produced a total of 450 intercontinental bombers, compared to only 104 for the U.S.

(6) In sum, the Soviets are producing 15 strategic systems for deployment, while in contrast, the U.S. is producing only one strategic system for deployment—the Trident submarine and the Trident II SLBM. But even the U.S. Trident II SLBMs are being equipped with a smaller number of warheads than they were designed to carry, and they are being equipped with older, Trident I warheads. Indeed, in the area of SLBMs, during the entire period of Gorbachev's 1985-1991 rule, the Soviets have produced well over 490 SLBMs, compared to only 205 for the U.S.

Thus the U.S. is behaving as if START was already in effect, while as usual, the Soviets are continuing their relentless, "break out" strategic buildup well beyond projected START levels in order to increase their strategic superiority.

Moreover, the United States is currently unable to produce any new nuclear materials or any new nuclear warheads, whatsoever, while in contrast, the Soviets have over a dozen active nuclear reactors producing a great amount of new nuclear material for new Soviet nuclear warheads.

The dire fact that our new Trident II SLBMs are being equipped with older Trident I warheads stems from the total U.S. inability to fabricate any new nuclear warheads whatsoever.

In sum, under START the Soviets nevertheless can legally maintain more than twice as many warheads as are allowed the U.S.

This makes a mockery of the ostensible START reductions of 30 to 50 percent, down to only 6,000 warheads allowed on each side, because the Soviets can legally more than double the legal limit of 6,000 warheads, to over 15,000 warheads, while the U.S. plans to have only 4,700 warheads at most.

(6) In addition the Soviets are allowed significant covert forces capabilities above their doubling of their allowed START level.

In addition to the Soviets' legal allowance for over 9,000 extra, legal, bonus, and also strategic reserve force warheads, the Soviets have in addition been allowed under START to maintain their capability to covertly and illegally keep almost two thousand more Strategic Nuclear Delivery Vehicles (SNDVs) carrying several thousand warheads totally outside of START levels.

For example, the Soviets can covertly keep:

Their already-illegal 200 covert SS-16 mobile SLBM launchers and missiles;

Several hundred SLBM launchers with thousands of multiple warheads at test ranges, which are known to have operational capability in a crisis, but which are uncounted in START;

Thousands of several generations of older SLBMs and SLBMs which have been replaced by retrofits of newer missiles and are covertly stored;

About 500 intercontinental Backfire bombers, and over 100 older Bear and older variants of intercontinental bombers, and the several thousand more warheads carried on these covert Strategic Nuclear Delivery Vehicles, which are completely excluded from START constraints.

A. Confirmation of over 1,000 covert INF missiles

The history of Soviet deception and confirmed cheating in arms control treaties suggests that the Soviets intend to maintain significant illegal, covert START forces.

Moreover, U.S. Intelligence reportedly has strong evidence which confirms that the Soviets have covertly retained many hundreds of illegal, stockpiled missiles banned by the INF Treaty:

At least 300, to over 600, covert SS-20s; Many covert SS-12s; At least several thousand covert, stock-piled SS-4s; A few covert SS-5s; About 200 to 300 covert SS-CX-4s; And finally, at least 72 to over 120 covert SS-23s; all of which constitute well over a thousand covert INF missiles banned by the INF Treaty, which the Soviets never declared, as required by the INF Treaty.

Thus, taking reasonable estimates for Soviet covert INF forces, the Soviets probably have covertly retained as many as well over 1,000 covert INF missiles. If the many thousands more SS-4s known to have been produced are assumed to still exit, then under a worst case estimate the total of covert Soviet INF forces could extend into the several thousands.

The Soviets will probably likewise fail to declare hundreds or even thousands of START missiles, as they did in INF.

(7) The Soviets will thus actually be able to maintain several thousand covert force warheads above their already more than double START level.

The Soviets have therefore also succeeded in gaining U.S. START concessions explicitly allowing these many covert Soviet Strategic Nuclear Delivery Vehicles and their several thousand more warheads, all to be covertly excluded from START constraints.

Moreover, in light of the confirmed fact that we know that the Soviets retained significant illegal covert missile forces under the INF Treaty, the Soviets will almost certainly exploit their capability to maintain these excluded intercontinental strategic forces as covert START forces, thus allowing the Soviets enormous options to maintain significant numbers of *covert* START forces of launchers and warheads.

Including these estimated *covert* forces numbering at least over 3,000 warheads on top of their legal 15,300 warheads, the Soviets will have at least about *18,300* warheads, compared to a grand total of only about 4,700 warheads under START for the U.S.

(8) START will more than double the existing Soviet first strike advantage.

The grossly asymmetrical force structures resulting from the mostly unilateral U.S. strategic force cutbacks in the proposed START Treaty, such as the Soviet capability to legally maintain over 15,300 extra warheads, plus at least about 3,000 more that are covert, when combined with the unequal U.S./Soviet targeting requirements, will thus make it much easier for the Soviets to strike the U.S. first with nuclear weapons against American missile, bomber, and submarine bases.

Thus in sum, START will make it much more easy for the Soviet Union to hit the U.S. first, because START will not even count or reduce existing Soviet quantitative strategic advantages, or constrain the significant Soviet modernization of several kinds of missiles, bombers, and nuclear first strike weapons that the Soviets possess and the U.S. does not.

The open press recently published many quotations from a classified 1988 CIA memo on the Soviet SS-18 Mod 5—the SS-26.

This 1988 CIA memo reportedly stated:

"The Soviets have been able to achieve two important objectives in START. First, they can accept a provision which reduces the number of heavy missiles by 50 percent and hopefully obtain a major U.S. concession in return. Second, with the larger SS-18 Mod 5 Re-entry Vehicle, they can still maintain the capability to destroy all U.S. silo-based ICBMs with the SS-18. The Soviets probably agreed to the U.S. 50 percent reduction proposal only *after* assuring themselves that this capability could be maintained."

For example, under START, the Soviets could easily have many more than 15,000 warheads available for a first strike, in order to attack only about 1,500 existing U.S. strategic targets, thereby giving the Soviets over a 15 to 1 strategic first strike advantage. This Soviet advantage more than *doubles* the already existing, pre-START Soviet 6 to 1 first strike advantage.

Moreover, even with only half the number of SS-18/SS-26s, 154 allowed under START, the Soviets will still have about the same first strike capability that they had with the full 308 launchers of the SS-18/SS-26 class.

To re-emphasize, even with START's ostensible halving of the SS-18 force from 308 to 154 SS-26 launchers, the Soviets will still have about the same first strike capability as they had with 308 SS-18s. This is due to the SS-26's much increased throw-weight, accuracy, and warhead carrying capacity.

If the Soviets were to deploy 20 warheads on each of their allowed 154 SS-26 ICBMs, then only 154 SS-26s would give the Soviets more accuracy, and more effective first strike capability, and the same number of warheads, as the already-existing 308 SS-18s force with 10 allowed warheads each, aimed at fewer U.S. hard targets.

(9) START will also allow further Soviet Modernization of their forces to even further enhance their first strike advantage.

But due to even additional major U.S. concessions, under START the Soviets will be allowed to significantly modernize all of their strategic missile and bomber forces, and the U.S. will effectively be denied these same qualitative modernization options.

For example, the Soviets are reportedly already developing and even testing so-called "follow-on" missile variants to their SS-24, SS-25, and even SS-26 ICBMs, and also to their SS-N-20 SLBM.

There are indications that these four new missiles will soon be flight-tested this year and next, and that they will be quickly deployed, with or without START. These four new missiles will surely have even heavier throw-weight than their predecessors, and they will be able to carry even more extra, bonus warheads, especially if the U.S. concedes to recent Soviet proposals on "downloading" counting rules and new type missile definitions.

For example, the Soviet SS-25 follow-on will probably be deployed with 3 covert MIRV warheads, but START will count it with only 1 warhead. This deployment alone could give the Soviets almost 1,000 more covert warheads. In addition, the Soviets may deploy more than the 14 warheads that are already probably on each SS-18. If the Soviets deployed 20 warheads on each of their 154 SS-18-class ICBM launchers, credited with only 10 warheads each, the Soviets could have 1,540 more covert warheads even than listed above.

These further U.S. force structure concessions will greatly enhance already existing Soviet strategic advantages and first strike capabilities.

(10) Finally, START will not be effectively verifiable, and U.S. Intelligence knows that the Soviets have cheated and will continue to cheat.

Even with augmented U.S. National Technical Means of START monitoring and verification capabilities, and even with extensive U.S. on-site inspections and other so-called "co-operative verification measures" under a proposed START Treaty, START will still not be effectively verifiable.

The START verification regime is full of loopholes inserted deliberately by the Soviets, in order to simplify their deception and cheating.

A. Monitoring Soviet mobile missile production: not enough perimeter-portal continuous monitoring (PPCM)

The Soviets have already deployed over 400 solid propellant mobile ICBM's both SS-25 road-mobile ICBM's and SS-234 rail-mobile ICBMs.

Thus continuous on-site monitoring of the portals and perimeters of all of the many Soviet production facilities for the first stage solid rocket motors for these two mobile ICBMs are crucial to monitoring START.

And in addition there are several Soviet solid propellant SLBMs—the SS-N-23 and SS-N-20—which are also being massed produced at several first stage solid rocket motor production facilities.

But START will entail many problems in monitoring the production of these missiles proposed to be constrained by START limits.

For example, as currently agreed, START will only allow two "perimeter-portal continuous monitoring" systems to verify Soviet solid propellant missile final assembly. And as a further problem, these two monitoring facilities will definitely not be able to verify the many Soviet first stage solid rocket mobile missile production facilities inside the Soviet Union used to produce these 4 Soviet mobile, solid propellant missiles.

Yet first stage solid rocket motors for mobile ICBMs are the unit of account in START.

Indeed, the two allowed solid rocket final assembly monitoring systems will be totally inadequate to monitor Soviet START missile production, because they will only monitor two missile final assembly facilities, rather than the several first stage solid rocket motor production facilities which actually produce the SS-N-20, SS-N-23, SS-24, and SS-25 solid propellant mobile missiles and their stages which are allowed and counted under START.

Moreover, the Soviets can accomplish missile final assembly anywhere, such as at the test ranges, so it will not do us much good go monitor the two allowed final assembly facilities.

In addition, under START the U.S. may not be able to weigh and measure Soviet missiles and their stages. This failure could be a serious U.S. monitoring shortcoming in START. And under START, the Soviets will probably be able to continue the full encryption of all their electronic telemetry signals for missile tests.

B. Soviet negotiating deception in START

The already confirmed history of Soviet deception and cheating on all existing arms

control treaties, including Soviet "fraud in the inducement" in negotiating SALT I, SALT II, "bad faith" in the negotiation of the recent Intermediate-range Nuclear Forces Treaty, and Soviet falsification of data in the proposed Conventional Forces in Europe Treaty and the possible START Treaty, and other serious confirmed Soviet cheating on SALT I-II and the ABM Treaty, the INF Treaty, and the proposed CFE Treaty, altogether suggest that the Soviets will persist in cheating on START, and that the U.S. will continue to have great difficulty in detecting Soviet deception and cheating under START.

According to press reports, in their October, 1990 START data exchange the Soviets claimed that they had zero new ballistic missile submarines under construction. But U.S. NTMs have reportedly detected components for four new Soviet ballistic missile submarines under construction.

Moreover, also in November, the Soviets reneged on their long-agreed warhead counting rule for their SS-N-18 SLBM. Thus the Soviets have clearly engaged in data falsification and negotiating deception in START, just as they did in all previous arms control negotiations and treaties.

Here is a description of each of the seven serious cases of reported Soviet negotiating deception in START:

1. The Soviets falsely claimed that each of their SS-18/SS-26 class of ICBMs carried only 10 warheads, when in fact U.S. Intelligence knows that each ICBM of this class has the capability to carry at least 14 warheads;

2. The Soviets falsely claimed that each of their SS-N-23 SLBMs carried only 4 warheads, when in fact U.S. Intelligence knows that each such SLBM has the capability to carry 10 warheads;

3. The Soviet falsely claimed that each of their SS-N-18 SLBMs carried only 3 warheads, when in fact U.S. Intelligence knows that each such SLBM has the capability to carry 7 warheads;

4. The Soviets falsely claimed that they did not have any SLBM submarines under construction, when in fact, reportedly according to U.S. Intelligence National Technical Means of monitoring, they had at least 4 ballistic missile submarines under construction;

5. For years in the START negotiations, the Soviets claimed that they could not declare the launch-weights and the throw-weights of their individual strategic missile types, because these declarations would prove that they had systematically developed, tested, and deployed several missiles in violation of SALT II constraints, and the U.S. acquiesced in this Soviet refusal;

6. The Soviets claimed that their new type missile, the super-extra-heavy SS-26 ICBM, was only a legal modification of their old type SS-18 extra-heavy missile under SALT II, when in fact the SS-26 was developed, tested, and deployed in violation of SALT II constraints. The Soviets also falsely claimed that their SS-26 was fully legal under SALT II, when in fact it was not, and the Soviets are deceptively trying to "grandfather" their illegal SS-26 under START.

7. Then-Soviet Foreign Minister Shevardnadze claimed in July, 1990, that the Soviets would stop their deployment of rail-mobile SS-24 ICBM launchers at 36, but U.S. Intelligence has reportedly just detected the deployment of a new train carrying 3 more SS-24 rail-mobile launchers above the declared level of 36, and according to press reports, the Soviets have also recently deployed 18 additional SS-24 rail-mobile "training" launchers which are indistinguishable from regular SS-24 rail-mobile launchers. Thus instead of having only the 36 SS-24 rail-mobile launchers that the Soviets pledged that they would have, the Soviets now have at least 57 such launchers.

And very significantly, all have a refire capability, doubling the force.

Finally, there is further evidence, at least an eighth case, of Soviet negotiating deception in START.

C. Further Soviet START deception

The Soviets tried to exploit the "end-game" START negotiations over the definition of new type missiles to their advantage, by allowing all their new type options under development, and to allow the further "down-loading" of all their "new type" missiles, in order to maximize their options to have new heavier missiles, which will also be counted as carrying many fewer warheads than they are capable of carrying.

Indeed, it is clear that the Soviets have engaged in "fraud in the inducement"—data base deception—in negotiating all existing arms control treaties. In particular the Soviet-supplied data bases in SALT I, SALT II, MBFR, INF, CFE, and now START, have all had significant fraudulent and deceptive elements.

D. The details of the SS-26 deception case

The Soviet new-type, super-extra-heavy SS-26 ICBM should be regarded as an important violation of the Soviet political commitment to abide by SALT II. Moreover, through negotiating deception in START, the Soviets have succeeded in convincing U.S. negotiators that this missile is merely the fifth "modification" of the old type Soviet SS-18 ICBM, and therefore the "SS-18 Mod 5" is "grandfathered" under START as merely a completely legal old type ICBM. But in reality, the Soviet SS-26 is a missile which violated SALT II in several ways, is legalized under START through Soviet negotiating deception, and which poses about twice the first strike threat as the old SS-18 class ICBMs.

In 1987, the Commander of the Soviet Strategic Rocket Forces state in an interview with Pravda that the Soviet SS-18 Mod 5 (or the SS-26, as it should properly be called) ICBM was developed and tested in accordance with SALT II limits. The Soviets still consistently claim that they have always been in full compliance with SALT II.

But this Soviet statement and frequent claims are another example of a Soviet total lie.

These Soviet false statements and claims constitute another clear example of Soviet START negotiating deception.

In the 1988 CIA memo recently revealed in the press, CIA's top analysts reportedly stated that the characteristics of the SS-18 Mod 5 (SS-26) "differ from the characteristics of the SS-18 Mod 4 in some important ways." The CIA memo reportedly went on to say that the SS-18 Mod 5's (SS-26's) throw-weight increased by "10 to 20 percent above the operational throw-weight of the SS-18 Mod 4." The memo reportedly concluded that "we are highly confident that the SS-18 Mod 5's [SS-26's] throw-weight has increased."

The most important difference between the SS-18 Mod 4 and the SS-18 Mod 5 (SS-26) is the fact that the SS-18 Mod 5 (SS-26) has much heavier throw-weight than the SS-18 Mod 4. Moreover, as we shall see, this 10 to 20 percent increase in throw-weight makes the SS-26 a third "new type" ICBM, under SALT II's definition.

The 1988 CIA memo reportedly concluded that:

"Under the terms of the unratified SALT II Treaty, the Soviets were prohibited from any increases in the launch-weight or throw-weight of the SS-18 Mod 4. It is apparent that they planned to flight-test the SS-18 Mod 5 with a throw-weight in excess of SALT II limits before the U.S. formally announced it would abandon the SALT II Treaty in May, 1986."

This is a clear CIA conclusion that the SS-26 was developed and tested in violation of SALT II.

In fact, the SS-26 was first flight-tested in March, 1986, while the Soviets were still politically committed to observe SALT II.

Moreover, besides being super-extra-heavy in throw-weight, there is a second reason that the SS-26 should be classed as a new type ICBM. The SALT II definition of a "new type ICBM" is any missile with more than a 5 percent increase in throw-weight. The SS-18 Mod 5 should have been classed as a new type, super-extra-heavy ICBM and designated the SS-26, because of CIA's assessment that its throw-weight was 10 to 20 percent greater than that of the SS-18 Mod 4.

This heavier throw-weight, of which the CIA is highly confident, thus has two important implications:

(1) Because CIA states that the SS-18 Mod 5/SS-26 was first flight-tested in March, 1986, while the U.S. and the Soviet Union still maintained their political commitment to abide by SALT II, its heavier throw-weight means that the Soviet SS-18 Mod 5 is a missile which was developed and tested in violation of the 1979-1986 Soviet legal and then political commitment to observe the limits of the unratified SALT II Treaty;

(2) and, the SS-18 Mod 5's heavier throw-weight means that this missile should have been designated the SS-26 as a new type ICBM in terms of both SALT II and START, because the SS-26 exceeds both the SALT II limit on increased throw-weight for heavy ICBMs, and also the SALT II definition of a new type ICBM.

To re-emphasize, the 1988 CIA memo stated that CIA was "highly confident that the SS-18 Mod 5's throw-weight has increased" over the throw-weight of the older SS-18 Mod 4 by "10 to 20 percent."

This clearly means that the SS-18 Mod 5 (SS-26) is a SALT II violation, and a new type ICBM in terms of SALT II and START, which should carry the designator of SS-26.

Thus the Soviets lied again—the top CIA analysts believe that the Soviet SS-18 Mod 5 was developed and tested in violation of SALT II as an illegal third new type ICBM, and also as an illegal new heavier ICBM, despite Soviet claims to the contrary. And as a third new type, super-extra-heavy ICBM, the SS-26 should be treated as such in the START negotiations.

In sum, according to the CIA's own 1988 memo, the SS-18 Mod 5 should really be designated the SS-26, and should be regarded as a missile developed and tested in violation of SALT II, and as such also as a super-extra-heavy ICBM and a new type ICBM in terms of the START negotiations. But instead, as a result of Soviet START negotiating deception, the SS-26 is classed merely as the SS-18 Mod 5, and is therefore "grandfathered" as a completely legal old or existing type of ICBM under START.

E. The details of the case of the U.S. acquiescence in Soviet refusal to reveal their missile throw-weights

In addition to the SS-26 case of Soviet START deception, there is the further case of the Soviet refusal to reveal their ballistic missile throw-weights, for fear of confessing

to their serious violations of SALT I and SALT II.

The Soviets have consistently refused to reveal to the U.S. the specific throw-weights of each of their ballistic missiles in the START negotiations, in regard to discussions of limitations on new missile throw-weights.

The U.S. has accepted this Soviet refusal to reveal each specific missile's throw-weight, because we have conceded that all we need for negotiating the presumed 50 percent reduction in aggregate ballistic missile throw-weight is the Soviet aggregate ballistic missile throw-weight, in order to have a baseline from which to calculate the 50 percent reduction.

Until this recent U.S. concession to accept only a Soviet aggregate throw-weight, one element of the U.S. approach to throw-weight limits was for each side to declare the throw-weight of each of its existing ballistic missiles.

But on March 1, 1990, Soviet Deputy START negotiator, Ambassador Masterkov, was asked why the Soviets were reluctant to exchange throw-weight values for specific missiles.

Ambassador Masterkov reportedly stated that: "The Soviets feared that if they revealed their specific throw-weight values for each of their missiles, these revelations might be used by the U.S. to raise SALT II compliance concerns."

It is extremely important to note that this Soviet admission is tantamount to a Soviet admission that the throw-weights of many of their existing missiles violated SALT II.

The Soviets evidently feared revealing the throw-weights of their SS-24 extra ICBM and their super-extra-heavy SS-26 ICBM. As noted, U.S. Intelligence believes that the launch-weight of the SS-24 clearly violates SALT II, and that both of these missiles have throw-weights that violate SALT II. And in addition, if the Soviets revealed the true throw-weight of their SS-19 heavy ICBM, it would clearly be greater than the SS-19 throw-weight that the U.S. attributed to the Soviet SS-19 in the SALT II negotiations, which was regarded by the U.S. as marking the boundary between light and heavy missiles.

In response to this Soviet reluctance to reveal the truth about Soviet deception and cheating in SALT II during the START negotiations, U.S. START negotiators stated that the U.S. no longer made formal compliance judgments with regard to SALT II, and that we regarded SALT II as a closed chapter. The U.S. also said that it was looking forward, not backward toward SALT II, and that the U.S. was not interested "in engaging in a major debate over the accuracy of specific Soviet throw-weight values." This was a significant U.S. concession—in effect the U.S. negotiators stated that they were not interested in finding out whether the Soviets were going to admit that they had cheated on SALT I and SALT II.

Instead, U.S. negotiators stated that the U.S. approach was a "pragmatic" one—that the U.S. was willing to let the Soviets mislead and deceive the U.S. once again.

U.S. negotiators stated that they remembered the December, 1987, Washington Summit, at which time the Soviets declared a value of only 44 warheads to be attributed to the Soviet SS-N-23 SLBM. But U.S. Intelligence even then had clearcut evidence that the Soviet SS-N-23 instead carried 10 warheads.

The U.S. negotiators then stated that while this Soviet declaration of only 4 warheads for the Soviet SS-N-23 had surprised the U.S., the U.S. had nevertheless accepted this Soviet deception.

The U.S. negotiators further stated that in the case of the Soviet reluctance to provide their specific missile throw-weights, the U.S. would display the same attitude as had been shown regarding the Soviet SS-N-23 warhead number deception.

In other words, the U.S. negotiators told the Soviets to go ahead and lie again to us on their specific missile throw-weights, as the Soviets had already done regarding their SS-N-23 SLBM warhead number, and the U.S. would again believe the Soviet lies like we had done regarding their SS-N-23 SLBM warhead loading.

F. Difficulties in monitoring Soviet mobile ICBM deployment

There are several other serious START verification issues, especially those involving the monitoring of Soviet mobile ICBMs.

In particular, given the confirmed facts that:

—Soviet mobile ICBMs constitute about 22 per cent of the Soviet legal allowance for Strategic Nuclear Delivery Vehicles under a possible START Treaty;

These mobile ICBMs carry about 13 per cent of the Soviet legal allowance for nuclear warheads under START;

The SS-25 road-mobile ICBMs are carried on truck launchers that are almost identical to the Soviet-supplied SCUD mobile truck launchers that were deployed in Iraq and that were so extremely difficult for the U.S. to detect even in the open desert during operation Desert Shield/Desert Storm, using *both* satellite and aerial reconnaissance;

And General Schwarzkopf compared the task of finding Iraqi mobile SCUD missiles to "looking for a needle in a haystack."

It is therefore clear that the U.S. will not be able to effectively monitor and verify Soviet road-mobile ICBM deployment under START using *only* satellite reconnaissance.

Moreover, it is also a fact that the Soviet SS-24 rail-mobile ICBM is deployed in deceptive rail trains made to appear identical to normal Soviet civilian trains.

As a result of this confirmed Soviet SS-24 rail-mobile ICBM deception, the U.S. Intelligence community has reportedly concluded in a formal written assessment, that it will be totally impossible to effectively monitor and verify Soviet SS-24 rail-mobile ICBM deployment under START.

This will be especially true if 125 "non-deployed" SS-24 missiles are allowed, and also if there is no "Perimeter-Portal Continuous Monitoring" of SS-24 first stage solid rocket motor production facilities.

Finally, we should realize that the proposed START mobile missile monitoring areas in the USSR are several times larger than the SCUD monitoring areas in Iraq (which were already about the size of several large U.S. states), and instead of being largely open desert, the Soviet mobile missile deployment areas are mostly forest, where camouflage and concealment is much easier.

There are also many more monitoring and verification problems with START, which will emerge as more details about START become known. These monitoring problems include such thorny issues as telemetry encryption and data denial, monitoring of "down-loading," and monitoring of definitions of new type missiles and bombers.

Conclusion

In sum, there are at least ten serious defects in the draft, proposed START Treaty. But even these ten "fatal flaws" in START are only the "tip of the iceberg" of the problems with the START Treaty. Many more defects and flaws will emerge as more details about the proposed, 280 page, draft START Treaty become known.

IV. START WILL BE MORE DESTABILIZING THAN SALT II

Most seriously, the currently envisioned draft START Treaty will clearly further enhance the Soviet first-strike capability.

A proposed START Treaty will thus further erode the survivability of the U.S. retaliatory deterrent capability.

Indeed, by allowing a further increase in the already overwhelming Soviet first strike capability, a proposed START Treaty seems to be worse and more destabilizing than the SALT II Treaty, which the United States Senate refused to give its advice and consent for the President to ratify.

President Bush should be urged to correct these 10 serious START defects before he ever signs a proposed START Treaty.

REPORT ON SOVIET BALLISTIC MISSILE TESTS NEAR HAWAII AS REQUIRED UNDER SECTION 1201 OF THE FY '88-89 STATE DEPARTMENT AUTHORIZATION BILL

DESCRIPTION OF EVENTS RELATED TO SOVIET FLIGHT TESTS

On September 26, 1987[1] the Soviet Union notified the US Embassy in Moscow that the Soviet Union intended to conduct missile launches between September 29 and October 8, 1987. In addition, the Soviets provided coordinates of two impact areas in the northern Pacific Ocean: a circular area (referred to below as the "southern impact area"), which was 60 nm in radius and located about 350 nm southwest of Honolulu; and a large trapezoidal area (referred to below as the "northern impact area"), whose southern limit was located about 600 nm northwest of Honolulu (see attached map). The Soviet news agency TASS announced the upcoming tests on September 27.

On the day of the Soviet notification to Embassy Moscow—Saturday, September 26—the Embassy cabled the notification to the Department of State and other routine addresses for such notifications. US officials identified the proximity of the impact area to Hawaii and prepared a formal protest to the Soviet representative in Washington. On Wednesday, September 30 the Soviets were called in to the State Department to receive the protest.

On September 29, at approximately 7:00 p.m., the Soviet Union launched an SS-18-class ICBM from the Tyuratam missile test complex. The test was a failure. The Soviets launched a second SS-18-class ICBM at approximately 9:00 p.m. on September 30. This test appears to have been successful, with several RVs landing in the northern impact area. No RVs or missile debris from the September 29 or September 30 tests landed in the southern impact area. Shortly after the September 30 test, the Soviet Union announced that this series of tests was complete.

The announced impact points for the September 29-October 8 tests, and the prepositioning of Soviet auxiliary ships (used for test monitoring purposes) in the vicinity of both the northern and southern impact areas, indicates that the Soviets were prepared to have their re-entry vehicles (RVs) pass in unprecedented close proximity to major populated islands of the Hawaiian chain, an unnecessary and provocative act.

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[1] All dates are referenced as Eastern Daylight Time.

In addition, since failures can and do occur during Soviet missile tests, a Soviet attempt to target RVs in the southern impact area would have carried the inherent risk that a deviation in the missile's trajectory or other technical problems could have resulted in RVs landing much less than 350 nm from, or perhaps on, sovereign US territory.

During both the September 29 and September 30 tests, Soviet naval craft illuminated US military aircraft operating in international airspace with what we believe to be lasers. On September 29 a US Air Force aircraft, which was observing Soviet activities related to the missile tests in the northern impact area, reported seeing a bright light from an undetermined source near the Soviet Navy's experimental auxiliary ship "Chukotka." The light disturbed the copilot's vision for ten minutes. On the following day, a US Navy aircraft was illuminated by an intense light from the "Chukotka."

The potentially hazardous use by the Soviets of directed-energy devices against US personnel raises serious concerns. It should be noted that, prior to the occurrences related to the Soviet missile tests, there had been worrisome incidents involving probable Soviet use of lasers against military units of the US and other Western nations.

US DEMARCHES AND SOVIET RESPONSES

After interested agencies reviewed the facts, the highest ranking Soviet diplomat present in Washington was called in to receive a demarche protesting the Soviet tests. The demarche was presented by the Director of the Office of Soviet Union Affairs to the Deputy Chief of Mission of the Soviet Embassy at about 4 p.m.

By early morning on October 1 (roughly thirteen hours after the US protest and 8 hours after the second ICBM test), Tass reported the completion of missile launches. The Soviet Foreign Ministry, in an October 6 statement, claimed that the tests had posed no hazard to US territory and did not involve a trajectory that passed over the Hawaiian Islands.

On the basis of conclusions reached from intelligence and the debriefing of the US aircrews, the State Department's Office of Soviet Union Affairs, on November 4, 1987, lodged a formal protest with the Soviet Embassy regarding the incidents in which directed energy devices were used to interfere with US reconnaissance aircraft. Both the Soviet missile tests and the potentially hazardous use of directed energy devices were also raised in high level meetings with the Soviets both before and during the Washington Summit.

PREVENTING FUTURE INCIDENTS

Two agreements currently in force are relevant to the prenotification of ballistic missile flight tests as a means of reducing possible misinterpretation or misunderstanding. Under Article VI of the 1972 Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on the Prevention of Incidents on and over the High Seas (INCSEA Agreement), the Parties are obligated to "provide through the established system of radio broadcasts of information and warning to mariners, not less than 3 to 5 days in advance as a rule, notification of actions on the high seas which represent a danger to navigation or to aircraft in flight."

In addition, under Article IV of the 1971 Agreement on Measures to reduce the Risk of Outbreak of Nuclear War between the United States of America and the Union of Soviet Socialist Republics ("Accidents Measures" Agreement), each Party is obligated "to notify the other Party in advance of any planned missile launches if such launches will extend beyond its national territory in the direction of the other Party." Although the Soviets (as is their customary practice) did not specify the agreement under which the September 26 notification was given, the substance of the notification was consistent with either—or both—the INCSEA and "Accidents Measures" Agreements.

All states have the right to conduct missile tests on the high seas in conformity with applicable international legal restrictions. At present, there are not specific treaty restrictions on conducting missile tests in the direction, or within a specified distance, of foreign territory. Customary international law, however, would prohibit the flight of RVs or other objects through US airspace without prior consent. Thus, a missile launch and RV descent that involved the overflight of US territory into an impact area in close proximity to the state of Hawaii could have raised issues in this regard. However, the Soviet tests of September 29 and September 30 were conducted in compliance with international law and existing agreements.

While we cannot state with certainty that the end of the Soviet series of tests on October 1 was the result of US protests, or that such incidents could not occur in the future, we believe the series of high level US protests, through both diplomatic and military channels, has clearly conveyed the seriousness of the US position in this regard.

SOVIET MISSILE IMPACT AREAS

Possible impact areas announced by the Soviet Union for the period between September 29 and October 8 were described as:

(1) The circumference of a circle with a radius of 60 nautical miles, with a center having the coordinates of 18 degrees, 00 minutes north latitude and 163 degrees, 00 minutes west longitude;

(2) A trapezoid with coordinates of 39 degrees, 30 minutes north latitude and 173 degrees, 00 minutes West longitude; 30 degrees, 30 minutes north latitude and 165 degrees, 15 minutes west longitude; 28 degrees, 15 minutes north latitude and 170 degrees, 00 minutes west longitude; 38 degrees, 30 minutes north latitude and 176 degrees, 00 minutes west longitude.

SOVIET VIOLATIONS OF SALT I AND SALT II WITH TWO HEAVY ICBMS ARE CONFIRMED BY NEW SOVIET-PROVIDED START DATA, BUT START WILL NOW LEGALIZE THESE PREVIOUSLY ILLEGAL HEAVY MISSILES

Throughout the 1969–1991 period of strategic arms limitations and reduction negotiations between the United States and the former Soviet Union, the United States has tried to restrict Soviet heavy missiles. One of the most important objectives of the United States has been to prohibit Soviet Inter-Continental Ballistic Missiles—ICBMs—which were heavy, from replacing Soviet light ICBMs. The United States has also tried to prevent the Soviets from modernizing their ICBMs by developing and deploying "new type" heavy ICBMs. Both of these key American objectives have aimed at preventing the Soviet Union from increasing its heavy ICBM first strike threat.

But the Soviets used negotiating deception and "fraud in the inducement" during Strategic Arms Limitation Treaty I—SALT I—negotiations to deploy illegal heavy ICBMs to replace light ICBMs in violation of the SALT I agreements. The Soviets have also used negotiating deception and "fraud in the inducement" in SALT II in order to illegally develop and deploy a "new type" heavy ICBM.

For a cumulative total of almost 20 years, in diplomatic channels the Soviets have falsely denied that two of their ICBMs were heavy, and were illegally replacing their light ICBMs in violation of SALT I and SALT II.

Fortunately, now unclassified Soviet-provided data in the recent START Treaty finally confirms these past Soviet heavy ICBM deceptions and violations of SALT I and SALT II. Eleven cases of Soviet deception and violations related to this data are now confirmed.

But unfortunately, START will fully legalize two previously illegal Soviet heavy ICBMs and several other previously illegal missiles. Thus Soviet deceptions and violations on heavy ICBMs in SALT I and SALT II have finally triumphed in the proposed SALT Treaty.

SOVIET SALT I HEAVY ICBM DECEPTION AND VIOLATION

In the SALT I Interim Agreement signed in May 1972, the Soviets agreed to a key provision prohibiting heavy ICBMs from replacing light ICBMs. But there was no agreed definition of a heavy ICBM.

Soon after signing SALT I, the Soviets began long-range flight testing and deployment of a heavy ICBM—their SS–19—to replace their light SS–11 ICBM. The Soviet heavy SS–19 thus defeated the object and purpose of SALT I.

According to now declassified, but once extremely sensitive communications intelligence intercepts, Soviet leader Brezhnev himself in May, 1972 secretly regarded their SS–19 ICBM to be a "heavy" ICBM. Moreover, this evidence explicitly shows that Brezhnev wanted to keep the "heavy" SS–19 ICBM secret from the United States until after SALT I was signed, because Brezhnev stated that he planned to illegally deploy this heavy missile to replace Soviet light SS–11 ICBMs on a large scale.

In order to induce the United States to agree to such a prohibition on heavy ICBM deployment without a definition of a heavy ICBM, the Soviets engaged in negotiating deception. The Soviet negotiators falsely assured the United States several times that an agreed definition of a heavy ICBM was not necessary, because they falsely claimed that they had no intention to deploy heavy ICBMs to replace light ICBMs. Soviet negotiators actually even told United States negotiators that the United States could "trust" the Soviets not to replace light ICBMs with heavy ICBMs.

But their later large scale deployment of SS–19 heavy ICBMs to replace their SS–11 light ICBMs proved that they not only defeated the object and purpose of SALT I; it also proved that they fraudulently induced the United States to sign SALT I by falsely claiming that they did not intend such replacement. The large scale Soviet deployment of heavy SS–19 ICBMs increased the Soviet first strike threat by a factor of five. Other evidence indicates that throughout the 1970s the Soviet leaders continued to secretly refer to their SS–19 ICBM as a "heavy" ICBM. Indeed, recent Soviet-supplied START data has now confirmed that this sensitive intelligence accurately revealed that the SS–19 was in fact a "heavy" ICBM.

In sum, the Soviets not only negotiated deceptively to deploy their heavy SS–19 ICBM, but they also violated SALT I with this de-

ployment. Moreover, ever since 1972, in diplomatic channels the Soviets have continuously and falsely denied that their heavy SS-19 ICBM was a heavy ICBM.

This experience in SALT I taught the United States that any effort in SALT II to constrain heavy ICBMs from replacing light ICBMs, and also to constrain heavy ICBM modernization, must be accompanied by an agreed definition of a heavy ICBM.

SOVIET SALT II HEAVY ICBM DECEPTION AND VIOLATIONS

In the SALT II Treaty signed in 1979, the United States once again succeeded in gaining Soviet agreement to the key provision that heavy ICBMs could not replace light ICBMs. Moreover, the United States also succeeded in gaining Soviet agreement to prohibit development and deployment of "new type" heavy ICBMs. But having learned our lesson from SALT I, this time we also tried to secure Soviet agreement to a definition of a heavy ICBM, which was crucial to making these prohibitions on heavy ICBMs into effective constraints.

The United States therefore put forward a definition of a heavy ICBM that was based upon the U.S. Intelligence estimate in 1979 of the launch weight of the Soviet SS-19 heavy ICBM. U.S. Intelligence estimated then in an unclassified assessment that the SS-19 had a launch weight of 90,000 kilograms.

The United States thus proposed that in SALT II, any ICBM on either side with a launch weight greater than 90,000 kilograms would be classed as a heavy ICBM.

SALT II thus again prohibited any heavy ICBMs from replacing light ICBMs, and in addition it went on to prohibit "new types" of ICBMs that were heavy. Only one "new type" ICBM was to be allowed to be developed and deployed on each side, and it had to be light—with a launch weight less than 90,000 kilograms.

The Soviet Union did not respond to this SALT II launch weight definition of a heavy ICBM proposed by the United States, but the United States avowed that it interpreted the Soviet silence on this definition to be assent.

Thus the United States signed SALT II in 1979 believing that there was at least a tacitly agreed launch weight definition of a heavy ICBM, and that the Soviet Union had agreed not to deploy heavy ICBMs with launch weight greater than 90,000 kilograms to replace light ICBMs, and had agreed not to develop, test, and deploy any "new type" heavy ICBMs with launch weight greater than 90,000 kilograms.

In 1982, the Soviets suddenly began flight testing two new types of ICBMs—the SS-24 and the SS-25.

But the SS-25 ICBM turned out to be a prohibited second new type light ICBM, and it was illegal for several reasons—it had about ten times more than the allowed 5 percent increase in throw weight, its telemetry was fully encrypted (encoded) illegally, and it violated the prohibition on the proportion of throw weight used by the single warhead.

Moreover, the SS-24 also turned out to be illegal, because its electronic telemetry signals were fully encrypted in violation of SALT II prohibitions against such encryption.

But there was another aspect of the new SS-24 that we have long suspected—it too has turned out to be another illegal heavy ICBM. Its launch weight has turned out to be heavier than 90,000 kilograms.

Moreover, during the 1979-1986 period when both the United States and the Soviet Union claimed a joint "political obligation" to comply with the unratified SALT II Treaty, the Soviets continued to replace light SS-11s with heavy SS-19 ICBMs, which now were the threshold between heavy and light ICBMs.

SOVIET START DATA CONFIRMS EARLIER DECEPTION AND VIOLATIONS ON HEAVY ICBMS, WHILE LEGALIZING THE SS-19 AND SS-24 HEAVY ICBMS

The United States and the Soviet Union signed the START Treaty on July 31, 1991. (Since then, the former Soviet Union changed its name to the "Commonwealth of Independent States," and changed the structure of legal and political control of strategic nuclear weapons, complicating the legal status and the ratification prospects of START.)

Like SALT I and SALT II before it, START's Article V again tries to prohibit heavy ICBMs from replacing light ICBMs. START's Article V also prohibits the development, testing, and deployment of "new type" heavy ICBMs. The START Treaty also finally contains a fully agreed definition of a heavy ICBM.

As an integral, legal part of the START Treaty, in the START Memorandum of Understanding (MOU) on Data, the Soviets were obliged to provide data on the characteristics and numbers of their missiles and bombers. But throughout the 1982-1991 START negotiations, the Soviets were very reluctant to provide this data, because they repeatedly stated that to provide this data would entail admitting their heavy ICBM deceptions and violations regarding SALT I and SALT II.

Nevertheless, just before START was signed on July 31, 1991, the Soviets finally revealed the launch weights of their SS-19 and SS-24 ICBMs. And the Soviet reluctance to provide this data was well founded—their MOU data provided under the START Treaty did in fact confirm several Soviet deceptions and violations of SALT I and SALT II.

In the unclassified START MOU on data, the Soviets finally revealed that the unclassified launch weight of their SS-19 ICBM was 105,600 kilograms, as compared to the 1979 U.S. Intelligence estimate in the SALT II definition of a heavy ICBM as any ICBM with a launch weight greater than 90,000 kilograms.

Moreover, the unclassified START definition of a heavy ICBM is any ICBM with a launch weight greater than 105,600 kilograms, that is, any ICBM with launch weight heavier than the SS-19.

Finally, the Soviets also revealed that the unclassified launch weight of their SS-24 new type ICBM was 104,500 kilograms, as compared to the 90,000 kilogram launch weight which defined a heavy ICBM under SALT II.

The Soviets thus finally revealed that the launch weight of the SS-19 indicates that the SS-19 was a heavy ICBM which defeated the object and purpose of SALT I. Moreover, the finally revealed launch weight of the SS-19 violated the U.S.-proposed and tacitly agreed definition in SALT II for heavy ICBMs. Further, the finally revealed launch weight of the Soviet SS-24 shows that it, too, was an illegal new type heavy ICBM under the terms of SALT II.

In sum, the newly revealed Soviet-provided START data confirms the following eleven significant facts:

1. The Soviet SS-19 was heavy ICBM which illegally replaced the light SS-11 ICBMs on a large scale, defeating the object and purpose of SALT I, and therefore violating SALT I.

2. The Soviets engaged in fraud in the inducement or negotiating deception in SALT I, by falsely claiming that they did not intend to replace light ICBMs with their heavy SS-19 ICBMs.

3. The repeated Soviet denials for almost 20 years in diplomatic channels that their SS-19 was a heavy ICBM were false.

4. The Soviet SS-19 was a heavy ICBM which also violated the U.S.-proposed SALT II definition of a heavy ICBM .

5. The Soviets engaged in fraud in the inducement or negotiating deception in SALT II, by allowing the United States to believe that their non-response to the U.S.-proposed heavy ICBM launch weight definition constituted their tacit agreement with this definition.

6. The Soviet SS-19 was a heavy ICBM which violated the SALT II prohibition on heavy ICBMs from replacing light ICBMs.

7. The Soviet SS-24 was a "new type" heavy ICBM which violated the SALT II prohibition on "new type" heavy ICBMs.

8. The Soviets also engaged in fraud in the inducement or negotiating deception in the case of their heavy "new-type" SS-24 ICBM, which was under advanced development in 1979 when they signed the SALT II Treaty containing prohibitions against it.

9. The repeated Soviet denials in diplomatic channels that their SS-19 was a heavy ICBM in violation of SALT II were false.

10. The repeated Soviet denials in diplomatic channels that their SS-24 was a "new type" heavy ICBM prohibited by SALT II were also false.

11. The Soviets have engaged in fraud in the inducement yet again in START, because they induced the United States to sign a START Treaty with a definition of a heavy ICBM that proves that both the Soviet SS-19 and SS-24 ICBMs violated both SALT I and SALT II. But now the Soviet SS-19 and SS-24 ICBMs are fully legal under START, incorrectly and fraudulently defined as "light" ICBMs. This continued Soviet negotiating deception on heavy ICBMs suggests that the Soviets will once again violate attempts in START to constrain heavy ICBM replacement and modernization, by developing even newer heavy ICBMs. And yet again, the Soviets will continue to deny the facts in diplomatic channels.

Finally, it must be noted that the U.S. Peacekeeper or MX ICBM deployed in 1986 is a clearly legal light ICBM in terms of both SALT II and START, because it was deliberately designed to have a launch weight of 88,000 kilograms, which is less than the 90,000 kilogram 1979 U.S. Intelligence estimate of the SS-19's launch weight.

In sum, the former Soviet START data confirms that the Soviet SS-19 and SS-24 heavy ICBMs violated SALT I and SALT II, while fully legalizing these two previously illegal heavy ICBMs under START. Moreover, START will also fully legalize several other Soviet missiles confirmed to be illegal, such as the SS-25 ICBM and the SS-16 covert mobile ICBM.

Russian President Yeltsin was correct in June 1991, and again in June 1992, when he stated that the leaders of the then Soviet Union had repeatedly lied and deceived the United States on arms control data over many years.

ANALYSIS OF START TREATY PROVISIONS REVEALS SIGNIFICANT SS-25 MOBILE ICBM "RETIREMENT" LOOPHOLE AND TWO POTENTIAL NEW START VIOLATIONS RELATED TO THE "FOLLOW-ON" TO THE SS-25

Summary: The START Treaty explicitly omits any requirement for each side to destroy a single strategic ballistic missile, with one exception pertaining to some mobile missiles. START also does not require either side to destroy a single nuclear war-

head. The START Treaty also allows each side to produce and retain an unlimited number of strategic ballistic missiles and missile stages, and to produce and retain an unlimited number of nuclear warheads.

The START Treaty only "reduces" missile launch silos, submarine missile launch tubes, and heavy bombers which are launch platforms for air-launched cruise missiles and nuclear bombs. START thus requires only the destruction of these excess missile launchers above START ceilings—only silos, submarine tubes, and bombers will be destroyed under START.

No missiles themselves are required to be destroyed under START, with one exception—some "non-deployed missiles" for mobile ICBM launchers are the only missiles specified for destruction in START.

But even in this unique case requiring some "non-deployed" mobile missile destruction, the former Soviets have secured U.S. agreement to an explicit exemption from START's required destruction of these mobile missiles. The former Soviets can easily and simply declare that their approximately 594 currently existing and allowed mobile, single warhead, SS-25 missiles and launchers are "retired." This "retirement" would completely exempt all SS-25's from destruction.

This exemption constitutes a significant loophole in the Treaty.

Moreover, if the former Soviets decide to take advantage of this loophole, which would be easy and relatively inexpensive to exploit, it would allow them to legally have more than 1,192 single warhead missiles for mobile ICBM launchers. There is evidence that the former Soviets intend to exploit this loophole shortly after the START Treaty enters into force. Thus by "retiring" their SS-25 force of mobile ICBM's and by replacing it with the probable "new type" mobile ICBM nick-named "Fat Boy," the former Soviets could have over 1,192 mobile ICBMs and still fully comply with START.

The Administration has failed to notify the Senate about the existence and status of the "Fat Boy." In addition, the failure of the former Soviets to notify the U.S. that more than 20 "Fat Boy" prototypes have exited from its production facility, and their failure to discuss the "Fat Boy" in the START Joint Commission on Implementation and Compliance may also constitute two serious new violations of START's requirements on notification and discussion of new type mobile ICBMs.

A. The START Treaty explicitly allows each side an unlimited number of "non-deployed missiles" for ICBM silo launchers and SLBM launchers.

Thus an unlimited number of missiles for ICBM silos and SLBM submarines area allowed.

B. But START does contain a limit on the number of mobile missiles that the former Soviets can have.

Article IV of the START Treaty states in part:

"(a) Each Party shall limit the aggregate number of nondeployed ICBMs for mobile launchers of ICBMs to no more than 250."

This provision means that the former Soviets cannot legally have more than 250 "non-deployed missiles" for launchers of mobile ICBMs. The former Soviets would have to "eliminate" or destroy any "non-deployed missiles" for mobile ICBM launchers above the limit of 250.

But according to the START MOU on Data on page 151 of the START Treaty, the former Soviets only declared 60 "non-deployed missiles" for mobile ICBM launchers, and hence they have the "head-room" or the opportunity to legally build 190 more "non-deployed missiles" for mobile ICBM launchers.

Thus because of this "head-room," even now the START limit on 250 "non-deployed missiles" for mobile ICBMs would not require the former Soviets to destroy a single "non-deployed missile" for a mobile ICBM launcher, and instead of requiring the destruction of "non-deployed" mobile ICBMs, START allows 190 more to be legally produced.

C. The START Treaty does not require the destruction of any missiles, with one exception—only missiles for mobile ICBM launchers are required to be destroyed in one general circumstance.

Article VII .2 of the START Treaty states in part that:

"2. ICBMs for mobile launchers of ICBMs . . . shall be subject to the limitations provided for in this Treaty until they have been eliminated . . ."

This is the only general requirement in the START Treaty to destroy a ballistic missile. Notice that missiles for mobile ICBM launchers are the only missiles mentioned in START for elimination.

The Administration's "article by article" analysis of the letters associated with the START "signature protocol" states succinctly:

"START requires the destruction of silo launchers; it does not require the destruction of ballistic missiles, except as necessary to remain within numerical limits on non-deployed mobile ICBMs."

D. The only specific missile that START requires to be destroyed is a mobile missile.

The START Treaty Protocol on Conversion and Elimination states in part I. That:

"Elimination of ICBMs for mobile launchers of ICBMs . . . [shall entail that] . . . the stages shall be destroyed by explosive demolition or burned . . ."

This is the only specific missile destruction procedures mentioned in the START Treaty whatsoever. Notice again that missiles for mobile ICBM launchers are the only missiles mentioned in START with specific procedures for elimination and destruction.

The Administration's own "article by article" START analysis states:

"Note that the [250] limit in this [Article IV.] subparagraph [(a)] is the only provision in the Treaty which actually requires destruction of any ballistic missile . . ."

The Administration's own "article by article" analysis of START also states:

"The absence of specific elimination procedures is appropriate since there are no limits on the numbers of ICBMs for silo launchers or on SLBMs and thus no requirement ever to eliminate such ICBMs or SLBMs by any means."

E. START contains a specific exemption for the only requirement for missile destruction—some mobile missiles destruction.

The Thirty-seventh Agreed Statement of START states that:

"The Parties agree that—

(a) The limitations provided for in subparagraph I (a) of Article IV of the Treaty [i.e. the limitation on no more than 250 "non-deployed missiles" for mobile ICBM launchers] shall not apply to ICBMs of retired types of ICBMs for mobile launchers of ICBMs to each of which one warhead was attributed . . .

(f) Procedures contained in the Conversion or Elimination Protocol for the elimination or removal from accountability of ICBMs for mobile launchers of ICBMs shall not apply to ICBMs of retired types of ICBMs for mobile launchers of ICBMs to each of which one warhead was attributed . . .

The former Soviet SS-25 single warhead mobile ICBM is the only single warhead mobile ICBM that was deployed on either side at the time of the signature of the START Treaty on July 31, 1991. So this provision in effect applies only to the SS-25.

The Administration's own "article by article" analysis of START states:

"Subparagraph (a) of the Thirty-seventh Agreed Statement provides that the limitations of [Article IV.] subparagraph 1 (a) do not apply to retired mobile ICBMs attributed with only one warhead . . . Since the SS-25 is the only single-reentry vehicle mobile ICBM that was deployed at the time of the signature of the Treaty, this provision applies in effect, only to it . . . Since retired mobile ICBMs attributed with only one warhead are not subject to the 250/125 limits, the Thirty-seventh Agreed Statement also exempts them from the elimination procedures in the Conversion or Elimination Protocol."

This Administration analysis thus confirms that there is in fact a major loophole in the START Treaty regarding the allowed retirement of the SS-25.

In fact, the above analysis strongly suggests that no ballistic missiles will be destroyed under START, because the only ballistic missile that might potentially have to be eventually destroyed is the SS-25.

But as noted, the former Soviets can actually build 190 more SS-25s before would come up against the 250 limit on "non-deployed missiles" for mobile ICBMs. Moreover, in the likely event that the SS-25 will be declared "retired" after entry into force, even the SS-25 will not have to be destroyed, because it is specifically exempted from destruction if it is declared "retired." Thus this exemption means that there is actually an incentive for the former Soviets to declare the SS-25 to be "retired."

In sum, the SS-25 is the only ballistic missile that might potentially have to be destroyed under START, but the former Soviets can build up to 190 more SS-25s before they might have to destroy any, and in the likely event that the SS-25 will be declared "retired," no SS-25s at all will probably have to be destroyed because of the "retirement" exemption.

This exemption permits the former Soviets to declare approximately all 350 of their currently deployed SS-25 single warhead ICBMs and mobile launchers, together with their 565 declared "non-deployed missiles" for the SS-25, together with the 190 more "non-deployed missiles" for SS-25 mobile launchers that they are still allowed to build, to be "retired."

The allowed "retirement" of these 596 SS-25 mobile ICBMs would mean that they would be completely outside of START and all START ceilings. Their locations and movements would have to be reported under START provisions, and the approximately 350 mobile truck launchers would have to be marginally modified so that they could not launch SS-25s. But then even these 350 trucks could be used as support vehicles for another, new mobile ICBM program.

Moreover, they could keep 20 "test launchers" for the "retired" mobile SS-25.

Finally, under Paragraph 10(b) of Article V, they would have to stop producing the SS-25, although this production stoppage is unverifiable, due to the fact that SS-25 stages can be produced at several facilities, and can be assembled at several other facilities.

In sum, simply by "retiring" the mobile SS-25, the former Soviets could avoid having to destroy a single mobile missile, and they could easily gain an extra 596 mobile missiles completely uncounted in START.

F. START then also allows the former Soviets to build an entirely new force of over 596 mobile missiles to replace the force of 596 "retired" SS-25s.

The Definitions Annex of the START Treaty states in definition number 69. that:

"The term 'new type' means, for ICBMs or SLBMs, a type of ICBM or SLBM, the technical characteristics of which differ from those of an ICBM or SLBM, respectively, of each type declared previously in at least one of the following respects:

(d) length of either the assembled missile without front section or length of the first stage, by ten percent or more;

(f) throw-weight, by an increase of 21 percent or more, in conjunction with a change in the length of the first stage by five percent or more . . ."

This definition means that the new "Fat Boy" missile, over 100 of which have reportedly already exited without U.S. inspection from the Votkinsk Perimeter-Portal Continuous Monitoring facility, can probably qualify as a "new type" single warhead, mobile ICBM.

Reportedly, several new garages which are 25 percent shorter than SS-25 garages are being built for the "Fat Boy" at an ICBM test range where mobile ICBMs are tested. The correspondence of the "Fat Boy's" length being 25 percent shorter than the SS-25's length, and the new garages' lengths being 25 percent shorter than the SS-25's garages means that the new garages are probably intended to house the "Fat Boy," which in turn is probably a prototype "new type" mobile missile being prepared for flight-testing.

This suggests that the former Soviets intend to exploit the SS-25 "retirement" loophole after START's entry into force, by testing and producing a "new type," single warhead mobile missile to replace the soon-to-be-retired SS-25s.

Thus the "Fat Boy" will probably differ in length from the SS-25 by about 25 percent, more than enough to qualify it as a "new type." Moreover, the thickness of the "Fat Boy's" stages suggest that it will carry more solid propellant and will therefore have over 21 percent more throw-weight than the SS-25, also qualifying it as a "new type."

G. The "Fat Boy" mobile "now type" ICBM must be a single warhead ICBM, and it must be properly notified and agreed to as an allowable "new type" mobile ICBM in the START Joint Compliance and Inspection Commission.

Article V. Paragraph 4. of START states:

"Each Party undertakes not to deploy on a mobile launcher of ICBMs an ICBM of a type that was not specified as a type of ICBM for mobile launchers of ICBMs in accordance with paragraph (2) of Section VII. of the Protocol on Notifications Relating to this Treaty . . . unless it is an ICBM to which no more than one warhead is attributed and the Parties have agreed within the framework of the Joint Compliance and Inspection Commission to permit deployment of such ICBMs on mobile launchers of ICBMs. . ."

This means that the "Fat Boy" must be a single warhead mobile ICBM, and that it must be properly notified and agreed to as an allowable "new type" mobile ICBM in the Joint Commission on Implementation and Compliance.

But the Senate has not been informed by the Administration of even the existence of the "Fat Boy," nor has the Senate been informed of its status and characteristics, nor informed of the garage construction activities at the mobile missile test range. Nor has the Administration notified the Senate that the former Soviets have met these JCIC notification and discussion requirements for the "Fat Boy."

H. The former Soviets may already have committed two new major violations of START by failing to notify the U.S. about the "Fat Boy"

Section VII. of the Protocol on Notifications states:

"Each Party shall provide the other Party, pursuant to subparagraph 3(g) of Article VIII. of the Treaty [on notifications concerning strategic offensive arms of new types and new kinds] the following notifications concerning strategic offensive arms of new types and new kinds:

(2) notification, no later than five days after the first flight test of a prototype ICBM of a particular type from a mobile launcher of ICBMs, or after the eighth flight test of a prototype ICBM of the same type from a fixed launcher of ICBMs, or after the exit of the twentieth prototype ICBM of the same type from a production facility, whichever is earlier, of whether ICBMs of that type shall be considered ICBMs for mobile launchers of ICBMs."

The fact that over 100 "Fat Boy" probable "new type," single warhead, mobile ICBMs have already reportedly exited from their missile production facility at the Votkinsk PPCM site without U.S. inspection and without former Soviet notification or discussion in the JCIC under the above language suggests that two new violations of the START Treaty may already have occurred. These two new violations would be in addition to the former Soviet flight test with full encryption of the SS-19 last December, which the Administration has already conceded was inconsistent with START obligations.

I. Conclusion: major START loophole and two new START violations confirmed

The former Soviets could produce, test, and deploy at least another 596 "Fat Boy" single warhead mobile ICBMs, to completely replace their "retired" SS-25 force of 596 missiles. All they would need to do is have a "new type" or even a "converted" mobile launcher, which must merely be "distinguishable" from the current SS-25 mobile launcher. Because the former Soviets have the freedom to compose their START force structure within the START limit of 1,100 attributable warheads for mobile ICBMs any way they wish, they could legally have many more than 596 "Fat Boy" mobile ICBMs.

Thus by "retiring" their SS-25 force, the former Soviets could have well over 1,192 single warhead mobile ICBMs and still be fully complying with START.

The Senate should have a complete CIA briefing on the "Fat Boy" loophole, and the Senate should conduct a closed session on this issue before it votes to give its advice and consent to the START Treaty.

Mr. SYMMS. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Wyoming [Mr. WALLOP] is recognized.

Mr. WALLOP. Mr. President, the Senator from Wyoming I am sure will be forgiven a little dose of paranoia. I have referred to this as the Stealth Treaty, because of the arrangement made yesterday first to debate it during a holiday and then to constrain its free debate for an hour today in the presence of few if any Senators.

Then I discovered I have now made seven parliamentary inquires the answers to which were not made available, and I would say to the Chair now that the earlier indications that the Senator received as to how those might be ruled upon have all been changed. So I will not seek the response to those, because I think the rulings would set bad precedents for the Senate.

The Senate at least is operating under a set of rules which it supposes would be somewhat permanent and able to be relied upon.

Then, Mr. President, yesterday I asked unanimous consent that papers by two experts whose testimony was not allowed, was specifically refused to be inserted into the RECORD, and I find on examination of that RECORD that they are not and were not put into the RECORD.

Mr. President, I had hoped in the offhand chance somewhere, somehow, that some Senator might be just casually interested enough in this treaty to have read, if not my words, at least theirs. That was not to be.

So, Mr. President, I now ask again unanimous consent that the two papers, one by Dr. Sven Kraemer and the other by Mr. Frank Gaffrey of the Center for Security Policy be printed in the RECORD and this time with my fervent prayer that they actually appear.

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

[From The National Interest, Fall 1992]

RE: START—ADVISE, DON'T CONSENT

(By Sven Kraemer)

The Strategic Arms Reduction Treaty (START) signed by Mikhail Gorbachev and George Bush on July 31, 1991 and now before the United States Senate involves the American people in deadly strategic gambles. START's flawed foundation and erratic chronology are as yet little understood. START has been a "stealth" treaty, essentially unnoticed and unexamined by Americans preoccupied by domestic electoral issues and caught up by high hopes about the end of the Cold War and a New World Order.

START was launched at the wrong time and on the wrong foot. It was signed in a mad rush at a Moscow summit before it was quite ready, and it required further detailed work before the administration could submit it to the Senate on November 25, 1991. The treaty was negotiated under summit deadlines at a time when the hardliners around Gorbachev largely determined the soviet positions. Thus START is marked by concessions to those hardliners—concessions that radically weakened key elements of the treaty earlier proposed by President Reagan. Reagan's START, in turn, contrasted sharply with President Carter's illfated, unratified Strategic Arms Limitation Treaty (SALT II) of 1979.

Gorbachev and the Soviet Union are long gone and the 1991 treaty is now obsolete.

Major new strategic arms control proposals were subsequently tabled in Moscow and Washington, notably at the June 17, 1992 Yeltsin-Bush summit meeting. Yet on July 2, 1992, the Foreign Relations Committee of the United States concluded its hearings on the 1991 treaty with a unanimous recommendation in favor of its ratification.

The full Senate will consider START at a time of national reassessment and new beginnings, which invariably come after a national election—whether it be followed by a new administration or the start of a second term. The Senate's consideration will present a unique opportunity to set things right with START, to safeguard American security and global stability, and to establish the enduring foundation of a new strategic framework for the post-Cold War era. That opportunity must be seized.

BASIC FLAWS

The administration's chief argument for START's ratification is that the treaty would "lock in" the foundation for future arms control progress in a volatile world. As we shall see, however, the old START needs a new start, for, as it now is, it rests America's security on crumbling foundations. The 1991 treaty signed under the aegis of the Soviet Union and Gorbachev's hardline associates is not a sound Strategic Arms Reduction Treaty. The treaty's flaws are magnified by three dangerous strategic realities that require special safeguards:

First, Russia remains a nuclear superpower. The collapsed Soviet Empire has left the future of 12,000 strategic weapons (and 18,000 tactical nuclear weapons) in doubt. In the wrong hands, these weapons have the capacity to destroy the United States and the entire globe. General Colin Powell, the chairman of the Joint Chiefs of Staff, spoke of this to senior Soviet generals in 1991 in words that ring true for the foreseeable future: "Even with the START treaty, you will have the capability to destroy us in 25 minutes.

Second, there is new and increased volatility in the former Soviet Union. It would be suicidal for the United States to rest its security either on the flawed START Treaty or on hopes about irreversible changes in the former Soviet Union. Boris Yeltsin and his fellow reformers face enormous obstacles. They may not succeed in irreversibly establishing full democracy, civilian control of military and intelligence operations, and conformity to international law and treaty obligations. Future coup attempts may well bring aggressive forces to power ready to exploit START's fatal flaws. Eight civil wars are currently being fought within the former empire, and large scale strife and new threats cannot be precluded.

And third, the end of the Cold War signals increased global weapons proliferation and reduced U.S. defenses. Indeed, the genie of advanced weapons proliferation is out of the bottle, even as U.S. and allied defense forces are being sharply reduced in the post-Cold War era. These two powerful historical realities make it imperative that America's future defense capabilities are exceptionally effective—and cost-effective—against a wide range of contingencies, and that arms control agreements such as START support rather than undercut such capabilities.

These strategic realities and START's high stakes have not been reflected in the actions of the Senate Foreign Relations Committee, which has primary jurisdiction on treaty ratification. The full Senate will now need to address the serious substantive flaws of the treaty as well as the serious flaws in the ratification proceedings.

Unfortunately, the Foreign Relations Committee appears to have prejudged its work on the treaty. On July 2, 1992, it unanimously recommended a Resolution of Ratification. (Senator Jesse Helms was hospitalized). The committee voted "yes" despite the fact that key elements of the START package were obsolete, incomplete, and inconsistent. It heard no critics and accepted no amendments. Few of its members attended the hearings and most avoided tough questions, although committee staff had prepared many. The committee did not wait for Senate Armed Services and Intelligence Committee hearings.

Though the committee's Resolution of Ratification includes numerous "conditions," these merely paper over problems and are essentially expressions of wishful thinking. They are not real "conditions" or preconditions since they require no treaty amendments and provide no effective safeguards. Following the administration's lead, the committee's resolution limits Senate consideration to only two of at least six key integral legal elements of START. These two are the bilateral July 1991 US-USSR treaty and a multilateral protocol of May 23, 1992, involving four of the former Soviet Union's successor states.

This bits-and-pieces approach to START ratification is designed to disguise the obvious inconsistencies between START's elements. It must be firmly rejected if the Senate is to fulfill its constitutional responsibility of advice and consent. Senators need to review, and vote on, a single, comprehensive, and fully integrated START package which includes—at the least—all of the following six of the treaty's major and interdependent legal elements:

1. The July 31, 1991 bilateral US-USSR START Treaty and its associated declarations and protocols. This set of documents was signed in Moscow by Presidents Gorbachev and Bush. Committee members and administration officials call this "START I."

2. The May 23, 1992 multilateral "Signature Protocol." This was signed in Lisbon, Portugal, by the United States and the four Soviet nuclear successor states—Russia, Byelarus, Ukraine, and Kazakhstan. The four pledged as yet unspecified and perhaps unachievable future "arrangements to be worked out among themselves" on: (a) future implementation of START (e.g., its verification provisions); (b) the commitments of the three smaller states to adhere "as early as possible" to the Nuclear Non-Proliferation Treaty and (c) the future status of the nuclear weapons on their soil.

According to the protocol, the tactical nuclear weapons were to be relocated into Russia by mid-1992, but the strategic weapons need to be relocated or destroyed only by the end of the seven-year treaty period. (In one of START's loopholes, however, "non-deployed" mobile missiles are permitted to remain outside of Russian even after that time.)

3. Side letters to the Signature Protocol addressed to President Bush from the heads of state of Ukraine (May 7, 1992), Kazakhstan (May 19), and Byelarus (May 20). These further spell out views and conditions of implementation of START, accession to the Nuclear Non-Proliferation Treaty, etc. Although, in an official statement on the Signature Protocol, Russia indicates it will not implement START unless the other three nuclear successor states join the NPT, Ukraine and Byelarus indicate in their side letters that they will not join the NPT unless nuclear weapons (missiles and warheads) are destroyed under international guarantees, a step not required by START.

4. The June 17, 1992 bilateral US-Russia Joint Understanding signed by Yeltsin and Bush at the Washington summit. This superseded key provisions of the 1991 treaty, but consisted of only a two-page framework and required weeks of additional negotiations to be put into treaty text form. It was not expected to be completed until at least September 1992. It is not a treaty, but administration officials and committee members call it "START II," or "The Deep Cuts, DeMIRVing Treaty."

5. The June 17, 1992 letter from Secretary of State Baker to Russian Foreign Minister Kosyrev. The document further changes key provisions by waiving the requirement that the warhead-carrying "platform" of "downloaded" missiles needs to be dismantled and replaced by smaller units and by the U.S. pledging, in effect, never to use its (97) B-1 bombers in a nuclear role.

6. The June 17, 1992 Joint U.S.-Russian Statement on A Global Protection System (GPS). This establishes a bilateral high-level group to develop a GPS "concept" within the framework of a modified ABM Treaty and focuses on ground-based systems, early-warning centers, and space-based sensors, but not space-based interceptors under U.S. control.

The administration and the Senate Foreign Relations Committee insist on a START ratification sequence that would begin with the bilateral treaty of July 31, 1991, would then take up the multilateral protocol signed with the successor states on May 23, 1992, and would altogether omit the Yeltsin-Bush Joint Understanding of June 17, 1992. The intent appears to be two-fold: to avoid waiting for the Joint Understanding's thorny details to be negotiated into treaty text and to avoid having the full Senate consider the problematic Signature Protocol and associated side letters (with their caveats) before political ratification momentum has been built up by "locking in" the old 1991 U.S.-Soviet treaty.

The proposed sequence makes neither legal nor arms control sense. For one thing, the Soviet contracting parties of 1991 are gone and Gorbachev's signature and the former Soviet Union's treaty are obsolete and retain no legal standing. Furthermore, the gains of the post-coup Yeltsin reforms and the 1992 summit's Joint Understanding are ignored by this approach and consigned to a future negotiations limbo.

The July 1991 treaty has no legal standing and therefore no ratification standing, except by virtue of the subsequent Signature Protocol and its associated side letters. Therefore, it is clear that the protocol, with all its problems and inconsistencies, must be considered and resolved by the Senate before the Senate can turn to the 1991 treaty.

In any legitimate START ratification procedure, the Gorbachev-signed treaty of July 1991 cannot validly be considered apart from the Joint Understanding or as a separate "START I" unconnected to the Understanding's "START II." The Joint Understanding is by no means a separate treaty, but an updating protocol to the obsolete 1991 document, a number of whose key provisions it clearly supersedes.

The Senate should scrupulously examine and resolve inconsistencies not only in the 280-page START Treaty of 1991, but also in all of its interdependent associated documents. For reasons of logic and legality, it should do so in the following sequence: first, a package including the June 1992 Joint Understanding in treaty text form, the Baker

letter, new multilateral commitments to the Understanding from the successor republics, and the GPS and other related summit statements; second, the May 1992 Signature Protocol and side letters; and last, the July 1991 START Treaty itself.

SEVEN SAFEGUARDS FOR THE SENATE

A responsible Senate assessment of START ratification issues must face up fully to the treaty's major loopholes and missed opportunities and should consider key safeguards for a safer new START and a sound new strategic framework.

It is important to note that the safeguards proposed below apply to the Soviet Union's successor states but need not be applied reciprocally to the United States. This is because, although Yeltsin and the other reformers may have good intentions, there is as yet no democratic political parity between the successor states and the United States—no firmly established commitment to democracy, no equivalent checks and balances, or a record of full treaty compliance.

The proposed START safeguards to be applied to the successor states, together with the significant loopholes and the way in which the Senate might set about plugging them, are as follows:

1. EFFECTIVELY ELIMINATE MISSILES AND WARHEADS

Loophole: The July 1991 START Treaty requires destruction only of launchers and not of a single missile or warhead (possibly excepting some mobiles). Further START loopholes permit the designation of many "retired" missiles as no longer START accountable, and permit a massive "downloading" of warheads without destroying missiles or their "front-end" warhead carriers that could be reloaded under new circumstances.

Many hundreds of missiles and warheads are thus exempt from destruction and are potentially available for use (e.g., with covert mobile launchers) by aggressive future leaders.

It is therefore significant that in their side letters to the May 23, 1992, Signature Protocol, two of the Soviet Union's successor states have, as part of their formal position on their own compliance with START and their commitments to join the Nuclear Non-Proliferation Treaty, asked for the verifiable international "elimination" or "destruction" of nuclear weapons: In a May 7, 1992, letter to President Bush, Ukraine's President Leonid Kravchuk requested that the "elimination of nuclear weapons . . . be carried out under reliable international control which should guarantee the non-use of nuclear charge components for repeated production of weapons." A similar letter from Belarus' President Shushkevich states that "the destruction of nuclear weapons should be carried out under rigorous and effective international control."

At the June 1992 Yeltsin-Bush summit, the United States offered technical and financial assistance for weapons dismantlement in addition to the $400 million already allocated from Pentagon funds under the Nunn-Lugar Act of November 1991. But much of this is for chemical and tactical nuclear weapons, not strategic weapons, and it appears likely that problems and costs of strategic warhead dismantlement could prove overwhelming.

Safeguard: The Senate should require that all four of the USSR's nuclear successor states, in undertaking START reductions, should rapidly dismantle or permanently bury in deep underground sites all launchers, missiles (including those being designated as "retired" or for "training," and all warheads on such missiles, to be accomplished with U.S. assistance and under continuous on-site U.S. inspection. The fissile material could be sold to energy companies, earning hard currency.

2. ELIMINATE ALL HEAVY MISSILE LAUNCHERS AND MISSILES NOW

Loopholes: The single most destabilizing strategic weapons are the "heavy" missiles, ideally suited for a first strike. The United States has none. The former Soviet Union has developed 308-204 in Russia and 104 in Kazakhstan, each with between 10 and 14 warheads.

President Reagan's START proposed to correct this dangerous imbalance through a 50 percent cut in numbers and a "no modernization" ban for heavy missiles. This would have banned all of the Soviet Union's current heavy missile force of SS-18s deployed with upgraded "Mod-5" and Mod-6" warheads. But the July 1991 START abandoned this position and retroactively legalized the entire upgraded force—which the Pentagon considers twice as lethal as prior versions—and wiped out any arms control gains from a 50 percent cut in numbers. The 1991 START permits even more modern SS-18 warhead upgrades and would leave half the heavy missile force (154 missiles with at lest 1,500 of the world's most lethal warheads) even after the conclusion of START in the year 2000.

START's heavy missile loopholes include two other elements. First, START permits the "relocation" (i.e. new construction) of up to 50 new launch silos for Soviet heavy missiles. Second, the START data base may be askew since the Soviet Union consistently provided false data on the throwweight and launchweight cut-off points which define a heavy missile in terms of existing missiles such as the SS-19, and doubts persist. In permitting any heavy missiles under such dubious definitions, it is possible that large numbers of additional missiles currently deployed or planned in the former Soviet Union may exceed anticipated heavy missile thresholds.

The June 1992 summit's Joint Understanding protocol moves to ban all SS-18s by the year 2000 or 2003, but while it mentions "elimination" and "missiles," it states that all reductions are to be carried out under July 1991 START procedures, which do not require elimination of missiles. Yeltsin stated at the June 1992 summit that he would take some SS-18s "off alert," but this means neither dismantlement nor even retirement.

SS-18 launchers are currently scheduled to be eliminated only very slowly—at the rate of 22 per year under the 1991 START, or at the rate of 44 per year under the 1992 Joint Understanding. Very substantial heavy missile capability will therefore be retained over most of the next 7-10 years, available to potentially hostile forces who may come into power during that time.

Safeguard: The Senate should set a high START priority on rapidly eliminating the SS-18 knock-out threat once and for all within the next 12-24 months. It should require the early removal of all SS-18 missiles from their silos to be followed by the use of high explosives within all 308 SS-18 silos and/or the filling of the craters with concrete. The missiles and warheads (whether defined as deployed, non-deployed, deactivated or not) should be dismantled or buried as rapidly as possible under continuous U.S. onsite inspection. U.S. defense dollars (e.g. one-half million per silo) could be dedicated in support of this purpose.

3. BAN ALL MOBILE MISSILES NOW—DON'T RELY ON "DOWNLOADING"

Loophole: A second key strategic asymmetry and loophole in START involves mobile intercontinental ballistic missiles. The United States has no such missiles and plans none, the Bush administration having canceled the small ICBM and rail-garrison MX programs during the past year. But over 370 mobile strategic missiles—rail-mobile ten-warhead SS-24s and truck-mobile single-warhead SS-25s—are deployed in Russia and Ukraine.

Consistent with his "zero option" for the Intermediate-Range Nuclear Force (INF) mobile missiles, President Reagan's START required a ban on all strategic mobile missiles. Two national security reasons still relevant today confirmed this position: the existing imbalance and the fact that the hard-to-find mobiles of whatever range or armament are destabilizing and not effectively verifiable—e.g., Iraq's Scuds, 72 covert Soviet SS-23 missiles, and possible Soviet SS-20 missiles deployed in violation of the INF Treaty of 1987.

The July 1991 START abandoned the prior U.S. position and legally permits 1,100 warheads on deployed mobile missiles and potentially many more warheads on "non-deployed," "retired," and "training" mobile missiles—provisions that are asymmetric and cannot be monitored with high confidence. The June 1992 Joint Understanding retains the 1,100 warhead limit. It goes after the multiple-warhead SS-24 mobile missiles, not by eliminating them or the SS-25, but by permitting them to be "downloaded" or "de-MIRVed" from ten warheads to one.

Downloading, however, cannot be monitored with high confidence, a situation further exacerbated by a U.S. decision cited in a June 17, 1992 letter from Secretary of State Baker to Russian Foreign Minister Andrey Kozyrev. This letter indicates that the U.S. has canceled the earlier START requirement to destroy and replace the platform containing the warheads in the downloaded missiles.

In sum, large numbers of SS-25 mobile missiles designated as "non-deployed" and "retired," and large numbers of SS-24 mobile missiles designated as "downloaded" are likely to remain available to potentially aggressive new leaders.

Safeguard: The Senate should require a total ban, to be implemented within two years, on all mobile missile launchers and their missiles—whether multiple warhead or single warhead, deployed or non-deployed, downloaded or not, and to include those designated "retired" or for "training." Launcher destruction should begin at once and the missiles and warheads should immediately be stored away from their launchers and dismantled or buried under continuous U.S. on-site inspection. The United States could offer to pay U.S. defense dollars (e.g. one-third of a million each) to cut up all of the mobile missiles and launchers within a two-year time period.

4. COUNT ALL THE MISSING BOMBERS

Loopholes: The 1991 START has a number of bomber loopholes not improved by the June 1992 Joint Understanding. The 1991 START permits the former USSR 180 "heavy" bombers but permits the United States only 150. It has counting rules which cannot be monitored with high confidence for limiting the air-launched cruise missile (ALCMs) to be carried on such bombers and it limits ALCM ranges far below the 1,500 kilometer range considered most cost-effective for U.S. bombers. It gives a free ride to 500 Soviet "Backfire" bombers, which the U.S. government has long officially de-

scribed as having inter-continental range and which President Reagan wanted to counter under START's bomber limits. Soviet steps taking (now Russian- and Ukrainian-based) heavy bombers off alert status have not altered these loopholes.

Safeguard: The Senate should set equal bomber limits to include all bombers the U.S. government has previously defined as having either strategic or intercontinental range, therefore including all Backfire bombers. The Senate should reject all ALCM limits, including present ones, which the president and the U.S. intelligence community cannot certify as monitorable with high confidence.

5. DON'T LIMIT SEA-LAUNCHED CRUISE MISSILES (SLCMS); DON'T RELY ON "DOWNLOADING" OF SUBMARINE-LAUNCHED BALLISTIC MISSILES (SLBMS)

Loopholes: The Bush administration recently abandoned the Reagan administration's opposition to SLCM and SLBM limits which cannot be verified effectively, and which affect our most secure deterrent forces.

For SLCMs, binding U.S. and Soviet declarations to the 1991 START set a limit of 880 on deployment of nuclear-armed SLCMs exceeding 600 kilometers in range. This limit captures most U.S. systems, but excludes most deployed by the Soviet Union and its successors and it cannot be monitored effectively. Additionally, such missiles are considered particularly stabilizing and cost-effective and they could prove to be increasingly valuable multi-mission alternatives to other flexible deterrent systems being curtailed, like the B-2 bomber or carrier forces. For such national security reasons, which are still persuasive, President Reagan did not agree to SLCM limits in START.

For SLBMs, the June 1992 Joint Understanding permits "downloading" of multiple-warhead SLBMs to a ceiling of 2,160 warheads during START and to 1,750 warheads by the year 2000 or 2003. Such "downloading" cannot be monitored with high confidence.

Safeguards: SLCMs should be kept out of START since SLCM limits are not effectively verifiable and the SLCMs offer potentially highly cost-effective and stabilizing U.S. deterrent and defense capabilities for a range of future contingencies. For SLBMs, vital strategic stability and verification issues also require extreme caution in implementing any limitations on U.S. SLBMs. SLBM downloading provisions clearly should be kept out of START as they are not effectively verifiable and invite future disputes and cheating.

6. REQUIRE MANDATORY ON-SITE INSPECTIONS AT SUSPECT SITES

Loophole: Notwithstanding pages of detailed verification protocols and assertions that START is effectively verifiable, key START elements simply cannot be monitored with high confidence—e.g., mobile missiles, SLCMs, ALCMs, "downloading," "new types," ect. Furthermore, START does not authorize mandatory inspections at suspect sites involving undeclared facilities and activities. START's Joint Committee and Inspection Commission does not impose inspections on a party which rejects such inspections and it cannot enforce compliance.

Safeguard: The Senate should require mandatory suspect site inspections by the United States for the Soviet Union's nuclear successor states. Such a requirement need not apply reciprocally to the United States. The Senate should tie economic assistance to the former Soviet Union to full inspection access, including continuous monitoring and mandatory suspect site investigations.

7. INSIST ON FULL ARMS CONTROL COMPLIANCE

Loophole: If to be serious about arms control is to be serious about compliance, the proposed 1991 START Treaty, the 1992 Joint Understanding, and initial Senate Foreign Relations Committee actions do not qualify. The abysmal record of Soviet violations of major arms control treaties has been well documented by a series of White House reports and by the General Advisory Committee on Arms Control and Disarmament. As recently as April 9, 1992, in a report to Congress, President Bush cited continuous problems of Russia's violations, including presentation of false data and covert activities, involving the INF Treaty, the Conventional Forces in Europe (CFE) Treaty, the Chemical and Biological Weapons conventions, the Limited Nuclear Test Ban Treaty, the ABM Treaty, and other agreements.

Safeguard: The Senate should insist on the arms control safeguard set forth by President Reagan in a March 1987 report to Congress: "Compliance with past arms control commitments is an essential prerequisite for future arms control agreements. . . . Strict compliance with all provisions of arms control agreements is fundamental, and this administration will not accept anything less."

In following up Boris Yeltsin's June 1992 summit statement that Russia has stopped lying to us, the Senate should require, as a precondition of START ratification, that President Bush certify the immediate correction of false data for INF, GFE, START, Chemical and Biological agreements, and correction of all other violations of treaty obligations (excepting the obsolete ARM Treaty).

MAD, SDI, ABM

If strategic arms control and the June 1992 summit's proclaimed "Global Missile Protection System" are to be taken seriously, it is necessary to eliminate START's MAD poison pill against the U.S. Strategic Defense Initiative (SDI); to put aside the 1972 ABM Treaty, which is broken, obsolete, and no longer legal; and to accelerate U.S. deployment of space-based missile defenses.

The July 1991 START carries forward the Soviet hardliners' poison pill against U.S. deployment of advanced missile defense systems under SDI. The Soviet position explicitly tied future Soviet compliance with START to U.S. compliance (albeit unilateral) with the 1972 ABM Treaty which bars advanced defenses. Absent such U.S. compliance, says a Soviet START declaration of June 13, 1991, START would not be "effective and viable."

Yet the ABM Treaty is a broken Humpty Dumpty of a treaty, irretrievably breached since 1983 by a central Soviet violation (construction of the Krasnoyarsk radar), first acknowledged by former Soviet Foreign Minister Edwuard Shevardnadze in October 1989. The treaty is also undercut in at least five other areas of noncompliance cited in President Bush's April 9, 1992 report to the Congress.

At the same time, the ABM Treaty is obsolete in its underlying assumptions about the assured effectiveness of global nonproliferation efforts and against the technological possibility of cost-effective missile defenses. The ABM Treaty also has an obsolete and increasingly questionable ethical base in its reliance on the doctrine of nuclear deterrence based on the threat of mutual assured destruction.

Furthermore, since no successor state protocol exists for the ABM Treaty comparable to START's multilateral "Signature Protocol" of May 23, 1992, its legal status has expired. In an added twist, systems limited under the ABM Treaty now include a large phased-array radar based in Skrunda, Latvia, an independent country which does not want any independent country which does not want any Soviet or Russian installations on its soil and which has not assumed Soviet treaty obligations.

The June 1992 Yeltsin-Bush summit proved quite inadequate in handling these issues or the additional global reality of the increasing threat of proliferation of weapons of mass destruction. The summit's "Joint US-Russian Statement on a Global Protection System" (GPS) signed by Yeltsin and Bush did not reject the ABM Treaty as expired, broken, or obsolete. It sets aside nothing, but merely establishes a high-level group to explore potential avenues in developing a "concept" for a GPS. The proposed high-level group will apparently be bound by a commitment to the obsolete ABM Treaty and will be limited in its focus. An important indicator is that the group will be headed for the United States by a State Department planning official, Dennis Ross, a Middle East expert, rather than, for example, by the knowledgeable head of the Pentagon's Strategic Defense Initiative Organization and former U.S. ambassador to the Defense and Space Talks, Henry Cooper.

The group's "concept" focus is expected to be on ground-based systems, warning centers, and space-based sensors, rather than on space-based interceptors like SDI's promising "Brilliant Pebbles." Yet only space-based interceptors and U.S. control can effectively assure engagement of missiles going to any direction from any direction (e.g. from submarines or Third World locations). Space-based interceptors are alone able to counter missiles near their launch point or in midcourse rather than over one's own territory close to the missiles' expected point of impact.

The American people, Boris Yeltsin and his fellow reformers, and, indeed, the entire globe all need a far more assertive and stronger pro-SDI U.S. position than the June 1992 summit's against the Soviet hardliners or than Congressional approaches focused on "narrow" interpretations which gut timely deployment of advanced defenses. The world is marked by unprecedented volatilities in the former Soviet Union, an ABM Treaty long broken in its provisions and assumptions, continued treaty violations, increasing proliferation problems, and the suicidal madness of MAD.

As part of any START framework, the United States should therefore insist on setting aside the ABM Treaty (as it set aside the broken SALT I and SALT II agreements in 1986) and accelerate a spaced-based SDI system fully under U.S. control. There can be no doubt that it is in the supreme national interest of the American people and in the highest interest of global security and stability that the United States rapidly provide the global insurance safeguard only advanced anti-missile defenses can assure. To guard against adverse developments the implementation of U.S. START cuts (particularly in the latter phases) should be tied by the Senate to the pace of U.S. deployment of advanced, space-based interceptors.

A NEW STRATEGIC GRAND BARGAIN

The administration and the Senate Foreign Relations Committee are pressing for early ratification of the obsolete July 1991 START Treaty. They insist the Senate vote without resolving START's fundamental pro-

cedural, substantive, and legal inconsistencies, and without waiting for a critical examination of the June 1992 summit's Joint Understanding and its final treaty text. They are proceeding without testimony from START critics, without the assessments of the Senate Armed Services and Intelligence Committees, and without establishing any effective safeguards to assure American security and global stability.

Such an approach to an immensely important issue endangers U.S. security and loses a historic opportunity for shaping a far-reaching new strategic framework, even as Boris Yeltsin and his fellow reformers face staggering obstacles and aggressive elements maintain the hope of gaining control in the former Soviet Union.

At this historic juncture, the Senate should undertake an integrated judgment on START and on the evolution of a new strategic framework. Budgets and treaties are drastically cutting U.S. strategic capabilities even as we face an increasingly volatile globe and a stumbling nuclear superpower in the former Soviet Union. At the same time, START ratification proceedings and national elections bring special requirements and opportunities for reassessment. The required strategic decisions should include assessments of the globe's new strategic realities, expert critiques of the START and Anti-Ballistic Missile (ABM) treaties, and development of safeguards and alternative strategies for a new framework based on the following elements:

First, restart START as a single coherent treaty, building on the 1991 Gorbachev agreement, the 1992 Signature Protocol, Side Letters and summit Understanding, and other associated START elements and new safeguards, to achieve a truly far-reaching, stabilizing, and effectively verifiable START treaty with key elements changed as proposed above.

Second, set aside the obsolete 1972 ABM Treaty and commit to rapid U.S. deployment of advanced strategic defenses. Agreement should be sought, and greater economic assistance could be offered as an inducement for such an agreement. But whether or not agreement is forthcoming, the United States should declare, notably in conjunction with any START package, that for reasons of supreme national security interests and to strengthen global arms control, security, and stability, it will set aside the ABM Treaty and will accelerate the testing and deployment, under U.S. control, of advanced strategic defenses to include space-based, anti-missile interceptors by the year 2000.

Third, insist on fundamental institutional changes in the former Soviet Union. The United States must finally act as if it really won the Cold War and wants to keep it that way, and while there is still time, exercise decisive leadership to consolidate and safeguard that victory for democracy and peace. The United States must, therefore, use all available diplomatic and economic leverage to work with Boris Yeltsin and his fellow reformers to set the terms for a far-reaching partnership against the Soviet hardliners and for the transformation of the successor states to full democracy at home and peaceful behavior abroad.

In such a new Grand Bargain, U.S. economic assistance under the Freedom Support Act of 1992 or the Nunn-Lugar Soviet Nuclear Threat Reduction Act of November 1991, as well as implementation of major START reductions or consideration of new arms control agreements (e.g. on chemical weapons or nuclear testing), should be conditioned on fundamental institutional changes certified by the U.S. president and Congress. Such changes should include: full civilian parliamentary control and transparency of military and intelligence programs and budgets equivalent to those in the Western democracies; full treaty compliance, including accurate data; immediate Soviet/Russian military withdrawal from the Baltic countries; verifiable dismantling, within the next two years, of the former Soviet Union's strategic weapons and force structure below START levels; and conversion to private civilian production and ownership under a legal system which fosters and protects full democracy at home and international law abroad.

As the Berlin Wall and the Iron Curtain came down and the military coup failed in Russia, the first fine flush of victory left many optimistic about the beginning of a benign new era in which the United States could afford to be more relaxed about the control of nuclear weapons and about serious military threats to ourselves and to our friends and allies. Many months later, with the old Soviet Union in turmoil and the distinct possibility of more turmoil and aggressive new leaders to come, with the proliferation genie out of the bottle, and with the knowledge of how close Saddam Hussein, and perhaps others, have come to acquiring weapons of mass destruction and their delivery systems, there can be no excuse for such dangerous illusions.

We are living in a world in which the problem is more, not less acute. Only with the establishment of a new strategic framework and a new Grand Bargain—restarting START, deploying advanced strategic defenses, and pressing with all available leverage to establish the institutions of full democracy in the successor republics of the former Soviet Union—can the freedom and security of America and the world be safeguarded for future generations.

[From the Center for Security Policy, Sept. 24, 1992]

STOP "START": THE CASE AGAINST RATIFICATION OF THE STRATEGIC ARMS REDUCTION TREATY

I. AN INSTITUTIONAL CRISIS: THE SENATE AS RUBBER-STAMP?

Fifteen months after the Strategic Arms Reduction Treaty (START) was signed in Moscow by President George Bush and then-Soviet President Mikhail Gorbachev, the United States Senate is preparing to give its advice and consent to the Treaty. On the face of it, this seems bizarre.

After all, the government with whom the Treaty was negotiated no longer exists; its successors are, moreover, behaving in ways that do not encourage confidence about their future compliance with its terms. Serious defects incorporated into the START agreement at the insistence of the ancien Soviet regime persist. And an agreement that would go some ways toward correcting START's flaws—initialled with much fanfare at the June summit between President Bush and Russian President Boris Yeltsin—appears, at present, unlikely to be translated into a binding accord.

The fact that the Senate could contemplate agreeing to the ratification of the START Treaty under these circumstances is a sorry indictment of the degree to which the institution no longer performs its constitutional responsibilities in the treaty-making process. Instead, it merely goes through the motions; the outcome—Senate advice and consent—is preordained well in advance.

To be sure, quite some time has passed since the START Treaty was submitted to the Senate for ratification. The lapse of so much time should not be confused, however, with a careful and rigorous examination of and debate on the accord and its terms. Instead, the delay has largely been due to the uncertainty and disarray caused by the collapse of the Soviet Union. During most of this period, the Senate has simply been unable to act on START as the Bush Administration engaged in a series of desperate negotiations aimed at salvaging a treaty in which the latter had invested immense political capital. This has largely been accomplished through the device of papering over those problems inherent in the accord that were exacerbated by the Soviet empire's dissolution.

To be sure, a number of hearings have been held by the Senate Foreign Relations, Armed Services and Intelligence Committees. With the active connivance of the Bush Administration, however, no expert witnesses who believe the Treaty's defects to be sufficiently serious as to justify withholding ratification have been permitted to testify.

To be sure, amendments have been drafted and approved by the Foreign Relations Committee. Still others may be offered and accepted when the resolution of ratification reaches the Senate floor in the near future. If so, such amendments will—all other things being equal—be like those already adopted: By definition, they are not "killer amendments," i.e., those that would require renegotiation of the Treaty's terms with the Russian or other Soviet successor governments. They are instead cosmetic modifications, intended not to correct important defects in the Treaty but rather to provide political cover to Senators.

In short, the United States Senate is in serious jeopardy of being reduced to a rubber-stamp for the Bush Administration's seriously flawed arms control agreements. The absence of a rigorous Senate review of START is symptomatic of a much larger problem: the atrophying of that all-important check-and-balance on the executive intended by the framers of the Constitution when they divided treaty-making power between it and the Senate. Such a corruption of the constitutionally mandated ratification process creates conditions likely to produce not only unwarranted approval of the present Strategic Arms Reduction Agreement but future accords that are even more defective. The upcoming, wholly unverifiable and ill-conceived Chemical Weapons Convention is a case in point.

The Center for Security Policy believes that—for both these immediate and longer-term reasons—the Senate must be given an opportunity to consider the unvarnished facts about the START accord. Since none of its cognizant committees have permitted such facts to be made a part of the record of their review of the Treaty, the Center believes it imperative to provide the Senate, the media and the American public at large with the following, brief arguments against ratification of the START agreement in its present form.

II. UNDERSTANDING THE POLITICAL CONTEXT

The general absence in the Senate of serious challenge—or even rigorous questioning—of the Bush Administration's assertions about the START Treaty appears to reflect the almost euphoric reaction of official Washington to the end of the Cold War and certain assumptions about the future of U.S.-Russian relations. Three of these interrelated assumptions warrant especially close scrutiny:

First, the contention that—with the dissolution of the Soviet Union—Russia is becoming an open society that can simply not afford to continue to invest heavily in its strategic forces, at least to the degree it has in the past. In short, according to this reasoning, START's exact provisions, and any defects it may have, do not matter.

Second, Russia is now a reliable negotiating partner, determined to comply with its arms control obligations. And

Third, the follow-on agreement to START, negotiated as a "Joint Understanding" at the June Washington summit, will solve any problems which may exist with the present Treaty.

Unfortunately, when subjected to rigorous analysis, these assumptions simply do not stand up to scrutiny:

Just how "former" is the former Soviet Union?

In important respects, the battle for the heart and soul of the new Russia and the other Soviet successor states is *not* over. The forces committed to systemic political and economic reform in each of the former republics are a long way from consolidating their claim to power, to say nothing of achieving their goals. They are increasingly confronted with the determined resistance of reactionary elements anxious to preserve—and, if possible, restore to their former glory—many of the institutions, policies and capabilities of the old order.

In particular, the jury is still very much out as to whether the Civic Union coalition—comprised of communist apparatchiks, figures from the military-industrial complex and KGB and disaffected reformers in Russia—will succeed in their campaign to sustain vast defense expenditures and programs wholly inconsistent with Russia's legitimate security needs. There are, however, worrying signs. For example, on 11 September 1992, Interfax reported that purchase orders from the Russian government for military hardware will be greater in 1993 than this year.

Moreover, a number of hard-line figures are actually receiving appointments to influential positions in the Yeltsin government. Notably, one of these is a General Ladygin whose calculated obstreperousness and inflexibility as a member of the Gorbachev START negotiating team induced the Bush Administration to make many of the last minute concessions that seriously weakened the Treaty. As a reward for his useful recalcitrance, Ladygin has been promoted and put in charge of the GRU, Russia's military intelligence service. The ominous symbolism of such personnel decisions is not being lost on others in the former Soviet Union, nor should it be on members of the U.S. Senate.

In short, it is certainly premature, and quite probably irresponsible, to predicate long-term U.S. security policies on the assumption that the transformation of the Soviet Union into democratic and peaceable successor states is an accomplished fact. Even if the intentions of those who claim to want such a transformation are genuine, they have not been realized to date and may never be.

Russia is not going out of the nuclear business

Meanwhile, the United States must remain concerned about the military capabilities inherited from the Soviet Union which are still largely in place. While some strategic programs have been eliminated as a result of the breakup of the Soviet Union, major resources continue to be devoted to facilities and programs intended to fight and win a nuclear conflict with the West. Worse yet, as a result of a lack of discipline and transparency in U.S. approaches to aiding the former USSR, the United States is now actually subsidizing, indirectly if not directly, Russia's operational nuclear forces—forces that are still directed against the United States.

For example, some of the $400 million in U.S. Defense Department funds set aside by the Congress last year to support nuclear weapons safety, security and dismantling activities in the former Soviet Union are being spent on enhanced survivability transporters for Russian nuclear weapons. In practice, these rail cars and tractor trailers will likely be used to support deployed missile and bomber units as well. Similarly, the recently announced decision to purchase Russian uranium at market prices without stipulating that on-going, state-subsidized production of this special nuclear material be halted is a formula for underwriting such production.

"Business as usual" in arms control

To those who maintain that these uncertainties are all the more reason for ratifying START (i.e., in the interest of "locking in" the former Soviet Union and prevent unpleasant surprises), a "sanity check" is in order: The conduct of the present, putatively open and honorable regime in Moscow does not inspire great confidence in its willingness—to say nothing of its successors'—to comply fully with arms control obligations. Consider the following illustrative examples of the problem:

Russia has already violated agreements associated with START (e.g., the encryption of telemetry on strategic test vehicles).

Russia is walking, if not running, away from the Joint Understanding agreed upon by President Yeltsin at the Washington summit in June (e.g., by linking their ultimate adoption to continued observance of the ABM Treaty—a proposition recently stated explicitly as a precondition by hard-line Defense Minister Pavel Grachev—and by arguing against elimination of the heavy SS-18 force).

Russia is continuing to violate the Biological Weapons Convention's ban on production and stockpiling of such weapons despite their repeated promises by the Yeltsin government to cease and desist. Recently announced undertakings about inspection of civilian facilities are not likely to eliminate concerns about the use being made of them for illegal biological weapons-related purposes—to say nothing of proscribed activities at still-closed military facilities.

Russia is violating CFE verification/inspection provisions precluding Western inspectors from conducting on-site inspections of all equipment and facilities that are supposed to be open to such monitoring.

Russia is also walking away from the destruction provisions of the Chemical Weapons Convention—on which the ink is scarcely dry.

Russia is even stalling on the implementation of START itself, insisting that Ukraine and the other Soviet states now parties to START under the Lisbon Protocol accede to the Non-Proliferation Treaty as non-nuclear weapon states before START enters into force.

The best that can be said about current Russian policy with regard to arms control is that it is both inconsistent and uncertain. At worst, it appears to be consistent with the cynical practice of the predecessor communist regimes: agree only to accords that significantly advantage Moscow's interests and ensure that such advantages are compounded by selective compliance.

This syndrome and the aforementioned manifestations of it argue strongly that, at a minimum, the United States must proceed with caution, undertaking a full and realistic assessment of any new commitments which would affect the present and future security of the United States. This is especially true of an agreement like START whose impact would be both sweeping, profound and lasting.

III. AN OVERVIEW OF THE START TREATY

At the outset of the START negotiations in 1982, the United States publicly articulated a number of key objectives against which the final treaty can now be assessed:

"Real reductions" in offensive arms—particularly in the then-Soviet land-based missile force;

"Equal and stabilizing" force postures; and

"Effective verification" of the development, production and deployment of Soviet strategic systems.

Claims by the Bush Administration to the contrary notwithstanding, the START agreement signed in July 1991 fails to achieve any of its original goals:

Not the advertised "deep reductions": The true effect of START in reducing the former Soviet Union's strategic arms is sure to be substantially less than claimed by the Treaty's proponents. The combined effect of START's counting rules, inaccurate data supplied by Moscow, allowed "downloading," unverifiable limits (e.g., on mobile missiles) and the absence of limits (notably on non-deployed non-mobile ICBMs) will be to permit the old USSR to reduce substantially the practical impact of such reductions as the Treaty requires.

Not "equal": The Treaty provisions grossly favor Russia. Three blatant inequities codified in the Treaty are: the attribution rules for warhead counting; granting Russia a de facto monopoly on mobile ICBMs; and granting Russia a de jure monopoly on heavy MIRVed ICBMs. These inequalities were accepted on the basis of certain assumptions concerning U.S. strategic modernization—notably, that there would be a deployment of 132 B-2 bombers and, if mobile ICBMs were to be allowed, deployment of U.S. mobile missiles—assumptions that have not been borne out.

Not so "stabilizing": START limits are in fact destabilizing as a result of leaving in place the preponderance of the massive Soviet—now Russian—ICBM force, particularly the heavy missiles designed for a first strike against the United States. Stability is further undermined by the cheating and breakout potential inherent in the Treaty due to the absence of effective verification.

Not "verifiable": Finally, the verification provisions of START—although many in number—are either cosmetic, ineffective or easily spoofed.

In sum, there are certain direct parallels between the "fatal flaws" found in the SALT II Treaty—flaws considered sufficiently grievous to justify the Senate's refusal in 1979 to agree to ratification of that accord—with the flaws in START. If anything, the fatal flaws of START are even greater in number and considerably exceed in terms of their strategic significance those of SALT II.

IV. START'S FATAL FLAWS

The following bill of particulars is intended to illuminate with greater specificity the serious defects in the START Treaty. It is meant to be neither all-inclusive nor an exhaustive treatment of each of the issues raised here. Instead, it offers a sample of the problems inherent in this agreement which—if, with the Senate's agreement, are left uncorrected—will cause potentially grievous

harm for U.S. security in the future and create precedents and strategic conditions which may give rise to still more deficient arms accords down the road.

Three generic aspects of the START Treaty bear special mention: those governing ballistic missiles, air-breathing systems and verification.

Ballistic missiles

Mobile Missiles

A central element of the original U.S. START negotiating position was a total ban on mobile missiles. The Intermediate-range Nuclear Forces (INF) experience with SS-20s and shorter-range ballistic missiles demonstrated the impossibility of monitoring mobile missiles. This reality was the major factor in U.S. insistence on the "zero option" in INF.

The lessons of the Gulf war also make clear the difficulties inherent in monitoring mobile missiles by National Technical Means (NTM) of verification. In that conflict, the United States had complete air superiority and a panoply of reconnaissance assets at its disposal. The job of monitoring the Iraqi force, moreover, was manageable compared to that of tracking and verifying its counterpart in the former Soviet Union.

For example, U.S. intelligence was looking for a relatively small number of Scuds, systems whose concealment in the deserts of Iraq was substantially more difficult than would be the job of successfully hiding much more mobile systems—like the SS-25—in the immense forests of Siberia. Even so, the United States was unable to determine the numbers, to say nothing of the location and readiness, of Saddam Hussein's mobile missile arsenal. Effective use by Iraq of decoys also demonstrated the gravity of the problem associated with spoofing caused by look-alikes and count-alikes.

The Soviet Union consistently argued to permit mobile ICBMs under START, with limits on warheads and launchers. In 1989, the Bush Administration lifted the ban on mobiles contingent upon agreement on effective verification and congressional support for U.S. mobile programs. In 1990, the Administration unceremoniously dropped that precondition—even as Congress balked at spending money on mobile ICBM systems and as little progress was made in defining, to say nothing of actually agreeing upon, effective verification measures.

In the negotiating "end game," the United States accepted the Soviets' proposals concerning numerical limits for deployed mobiles and for monitoring mobile missiles. In short, the U.S. position on mobile missiles evolved from a complete ban to allowing ceilings of 1,100 warheads without effective verification.

Thus, given the termination of the U.S. mobile programs, START will not only grant the Russians a monopoly on mobiles, but also simple avenues for militarily significant cheating. For example, only assembled missiles are accountable under the Treaty and only final assembly plants have portal monitoring. As will be discussed at greater length below, this arrangement allows Russia to produce an unlimited number of states for mobile missiles, which can then be assembled covertly.

Heavy ICBMS

A key objective for the United States practically from the beginning of the SALT negotiations was that of achieving substantial reductions in Soviet heavy ICBMs. The SS-18 force, whose only mission can be a first-strike against the United States, has, since it was first deployed, been considered the most destabilizing element of the Soviet force posture. Accordingly, from the outset of the START talks, the U.S. insisted upon a ban on production, flight-testing and modernization of existing or "new types" of heavies—including the now deployed SS-18 Mod 5.

At the 1987 Washington summit meeting between President Reagan and Mikhail Gorbachev, the sides agreed to limit Soviet heavy missiles to 1,540 warheads on 154 deployed SS-18s. The decision to permit Moscow to retain half its most deadly first-strike force was bad enough; after 1988, however, the remainder of the U.S. position on heavies was seriously eroded.

For one thing, the Bush Administration accepted the deployment of the SS-18 Mod 5, a major qualitative improvement over the Mod 4. In fact, so great was the improvement in performance associated with this new missile that a force of 154 Mod 5s was judged roughly comparable in capability to the then-existing deployment of 308 earlier generation SS-18s. In short, the START Treaty's vaunted halving of the Soviets' most dangerous missile capabilities was largely vitiated.

For another, the Bush Administration agreed to drop flight test limits on heavies and permit modernization. The ban on flight testing and modernization of heavies was intended to remove this class of weapons by forcing the Soviets' heavy missiles to atrophy over time. Without the ban on modernization, the agreed-upon numerical restrictions on heavies will basically prevent only the quantitative expansion of the Russian SS-18 force.

Permitted modernization also allows the Russians to upgrade significantly qualitative capabilities in an area where the U.S. has no equivalent force. In the absence of the sort of outright ban on SS-18s envisioned in the June 1992 Washington summit agreement, the effect of START is to allow Russia to produce still more advanced follow-ons, each with greater capability than the previous modification. While an effective prohibition on new types would preclude such modernizations, the START Treaty—like the SALT agreements before it—has no such prohibition. Instead it leaves the former Soviet Union ample leeway to introduce essentially new missiles under the pretense that existing ones are simply being upgraded. In short, START prevents only the U.S. from deploying heavies now and in the future, an arrangement clearly inconsistent with the spirit and the letter of the 1972 Jackson amendment to the SALT I Treaty.

Non-Deployed Missiles and Launchers

A major flaw of SALT II was that the reductions it required could be easily reversed because of the absence of limits on non-deployed missiles and launchers. For this reason, the United States long sought to restrict the numbers and locations of all non-deployed land-based missiles (NDMs) and non-deployed launchers (NDLs).

In yet another reversal of the Reagan position, the Bush Administration agreed to the Soviet position of no numerical limits on non-mobile NDMs. Thus, Russia has the right to produce and stockpile as many land-based ICBMs as they desire, including MIRVed heavy ICBMs. This allows unlimited refire and breakout capability.

The Bush Administration did slightly better when it came to achieving limits on the number of NDMs and NDLs associated with mobile missiles. And yet, these limits (e.g., 250 for mobile NDMs) were set so high under START as to make them meaningless.

Unfortunately, the restrictions on NDMs/NDLs in the START Treaty designed to preclude rapid reload are unlikely to have any real effect on Russian capabilities. Mobiles provide for easy refire. Meaningful NDL/NDM limits, therefore, are crucial to preventing major breakout avenues. Such limits and geographic restrictions as are imposed by START for mobile NDMs/NDLs clearly do not serve this purpose.

Warhead Attribution

Russian warheads deployed under START are substantially undercounted. A 10-reentry vehicle (RV) payload is attributed to the SS-18—even though it is capable of carrying 14 RVs. The SS-N-23 is counted as carrying four warheads, but may be capable of carrying twice as many. This means that the former Soviet Union can legally have thousands of warheads beyond the levels nominally permitted under the START Treaty.

What is more, the ex-USSR added insult to potential strategic injury by changing their own data. In the December 1987 Washington Summit Joint Statement, the Soviets stated that the SS-N-18 carried seven warheads. In the Memorandum of Understanding accompanying the START Treaty, however, the SS-N-18 is listed as carrying only three reentry vehicles.

Overall, the START counting rules allow Russia to maintain a much larger force of launchers and platforms than has been expected. Thus, the SS-N-18 attribution numbers could decrease the number of accountable warheads by about 1,000—allowing the Russians to retain up to 40 ballistic missile submarines, over twice the number the United States will retain.

This enormous undercounting, which is fully legitimized by the START Treaty, also allows the Russians a ready-made breakout avenue through RV-uploading. The potential RV breakout resulting from the attribution rules on the SS-18, SS-N-18, and SS-N-23 could be measured in the thousands of warheads.

Downloading

The RV breakout problem is compounded by START's provisions allowing for downloading of up to 500 RVs. By nominally reducing the number of warheads these two missile types can carry, a larger quantity of each missile can be retained than would otherwise have been the case.

The downloading provisions also allow the Russians another path to breakout. Stockpiled RVs, legal in START, could be uploaded in a crisis or during a conflict. Combined with the agreement to undercount the SS-N-18, the Soviet successor states are allowed a total of about 2,500 downloaded warheads on three types of ballistic missiles. It seems likely that all of these additional warheads could be uploaded in a matter of weeks, at most, months.

Throw-weight

A long-held U.S. position was that the aggregate throw-weight of the Soviet ballistic missile force must be reduced by roughly 50 percent. Here again, the Bush Administration agreed to several Soviet-proposed changes which significantly and systematically mis- and undercount throw-weight.

For example, the START Treaty does not require that the parties' data concerning the throw-weight capabilities of their respective missile forces be measured by the other side. Instead, such data—and that concerning the throw-weight performance of new missiles—is simply "declared." Moscow's representations to date suggest that the Russians have chosen significantly to overstate their ac-

tual throw-weight capabilities (i.e., 6.6 million kilograms vs. roughly 5.8 million kg).

Such inflated estimates serve to make the actual effect of throw-weight reductions substantially less than 50 percent. In addition, the formula contemplated for calculating throw-weight under START amounts to just 70–80% of potential capability. As a result, the Russians could (assuming they were willing to make the necessary investment) field forces with a total capability of nearly 4 million kg throw-weight—roughly twice the current U.S. aggregate throw-weight and on the order of three times the capacity inherent in the missile forces the United States will deploy under START.

Air-breathing systems

Backfire Bomber

Another fatal flaw of SALT II repeated in START is the circumvention permitted by the absence of any real limits on Backfire bomber. The Backfire is capable of delivering a payload at strategic range, perhaps including long-range air-launched cruise missiles (ALCMs). The Soviets consistently contended that the Backfire is not an intercontinental heavy bomber. Under President Reagan, the United States insisted on this system's inclusion in START. The Soviets refused.

Under President Bush, the U.S. position eroded to the point where Backfires were ultimately exempted from START's limitations. Instead, they are dealt with under a separate, "politically binding" agreement. Under its terms, the number of Backfires were limited to a total deployment of 500—a number substantially larger than are currently in the Russian inventory. A ban was also imposed on giving the Backfire an aerial refueling capability, something it has long been suspected of having. As a result of this jury-rigged extra-treaty compromise, there is no inspection or verification regime for the Backfire.

Heavy Bomber Definition

The initial U.S. position in START was to include, and hold accountable, all types of existing and future Soviet heavy bombers—including Backfire follow-ons. The U.S. ultimately agreed, however, that a new Backfire-type bomber would not be limited by either START or the separate Backfire agreement unless the Russians agreed to do so. This would permit Russia to build a modern Backfire-type bomber in unlimited numbers. Should they choose to do so, they will be able legally to train air force personnel in aerial refueling on the follow-on.

ALCM Counting

Although the United States nominally achieved its objective of discounting air-breathing systems and of excluding conventional ALCMs, the benefits of the discount approach have been greatly undercut by the decision to reduce the number of B-2 bombers from 132 to the proposed 20. In fact, the gutting of the B-2 program will leave the U.S. without a sufficient force of modern and effective bombers to permit it to exploit such advantages as it nominally obtained under the agreed discounting arrangements for air-breathing systems. Finally, the U.S.-Russian force asymmetry exacerbated by the cut in the number of B-2s is compounded by the fact that U.S. bombers would face massive air defenses if they have to carry out attacks against the former Soviet Union. Russian bombers face no such obstacle.

ALCM Range

A further concession—which also served dramatically to undermine the U.S. approach in START with respect to air-breathing systems and stability—involved the range for START-accountable ALCMs. Throughout the Reagan Administration it was set at 1,500 km. This was a level meant to preserve maximum U.S. flexibility in fielding shorter-range systems and to recognize the need for American bombers to stand-off at considerable distances in launching ALCMs against unconstrained, forward-deployed Soviet air defenses. The 1,500 km level was also seen as advantageous to the United States, a provision that would go some way toward offsetting provisions favoring Soviet strengths in the ballistic missile area.

The Soviet position throughout the START negotiations, however, was 600 km and never changed. The Bush Administration sought a series of compromises starting with lowering the range accountability limit to 1,000 km. In the end, it accepted the ultimate "compromise"—the Soviet position of 600 km.

Verification

The verification aspects of the START Treaty are among its most troubling. Unprecedented in their complexity, intrusiveness and likely cost to the United States—qualities that have prompted Bush Administration spokesmen and other Treaty supporters to assert that this accord is verifiable—START's verification regime is in key respects, nonetheless, woefully inadequate to the task of monitoring Soviet successor states' compliance with its terms.

Portal Monitoring

At the beginning of the negotiations, the U.S. considered on-site monitoring of missile production facilities to be key to effective verification. The United States believes it was essential to monitor solid rocket motor production facilities—facilities with unique identifying signatures—as opposed to final assembly plants which typically have no such unique signatures. This arrangement differed from INF, where all missiles were to be eliminated and the discovery of any INF missile thereafter would constitute a violation. Under START, strategic ballistic missiles would continue to be produced and deployed. Here again, the Bush Administration reversed the long-standing U.S. position and agreed to establish portal monitoring only at final assembly locations for mobile missiles.

This central concession makes impossible monitoring Russian compliance with the limitations on mobile ICBMs. Without monitoring at solid rocket motor production facilities, the United States simply has no hope of verifying the number of missile stages produced. Such stages can then be stockpiled, to be assembled (a relatively straightforward and rapidly accomplished task) when desired. Given that mobile missiles inherently lend themselves to operations deployment away from fixed—and monitored—installations, such production could translate into substantially larger numbers of mobile ICBMs than permitted under START.

Russia could also use covert assembly and storage to maintain a ready augmentation force of fixed ICBMs with minimal risk of detection. When the United States dropped limits on non-deployed missiles for such systems, it rationalized away the need for monitoring of production facilities associated with such missile stages. The Russians are, therefore, legally able to produce as many of such missiles as they desire.

On-Site Inspection (OSI)

The United States has long believed that on-site inspections were necessary to deter the Soviets from establishing covert production and storage sites for START Treaty-limited items. However, the START Treaty contains a right to short notice inspections only for facilities on a list provided by the inspected side. Naturally, Russia is unlikely to place covert production and storage facilities on the list to be provided.

The START Treaty contains no suspect-site inspection of non-declared facilities, a provision that might have deterred covert production and storage facilities. Instead, if the United States believes it necessary to visit a site not on Moscow's list, it must obtain Russian permission. Should that permission not be forthcoming, there is no recourse.

ALCM Inspections

Because ALCMs are produced in non-unique facilities and are easily moved and stored, the United States believed that no effective verification regime could be found for ALCMs. From this reason the U.S. sought to prevent the Soviets from using the ALCM verification regime as an intelligence gathering tool to gain information on advanced U.S. programs.

However, the START Treaty the United States has agreed to an intrusive ALCM inspection regime—despite the fact that there are no numerical limitations on ALCMs. This contrasts starkly with the far less stringent inspection arrangements that apply to much more rigorous constraints.

The ALCM inspection provisions are, moreover, drafted in such a way as to affect essentially only U.S. systems. The inspection regime will not have the effect of increasing the sides' confidence in compliance with the ALCM provisions of the Treaty. Instead, it will likely risk compromising U.S. "black" missile programs and sensitive long-range, conventionally armed ALCM programs.

Tagging

For years, the United States insisted that effective verification of production and deployment of missiles required "tagging" (a means of identifying objects in a tamper-resistant fashion). For mobiles, tagging was intended to monitor deployed launchers—in part to deter rotation of non-deployed launchers or covert introduction of illegal launchers into the deployment areas for operational checkout and crew training.

In the START negotiating end game, however, the Bush Administration agreed to replace the tagging provisions the U.S. had insisted upon with ineffective "unique identifiers," consisting of little more than the factory number of the launch canister the first stage—information easily manipulated or spoofed.

The sum of these numerous defects of the START Treaty are substantially more worrisome than they are individually. Collectively, they constitute an arms control regime that is neither equitable nor verifiable. The dramatic, and adverse, effect it will have on the size and quality of American strategic offensive forces is not likely to be matched by comparable changes in those of the former Soviet Union.

In fact, provisions included in the Treaty at the insistence of hard-line elements in the Russian military-industrial establishment will—unless altered by Senate action—create loopholes and inequities certain to be exploited if the influence of this faction continues to grow in Moscow. Since such an unsavory development is very much in prospect, the recommendations to the Senate contained in the following section take on special urgency and importance.

V. CONCLUSIONS AND RECOMMENDATIONS

This litany of issues on which the Bush Administration abandoned negotiating positions adopted by its predecessor is of concern not only because it demonstrates the myriad times Soviet tenacity and obstreperousness were rewarded with substantive U.S. concessions. Far more important is the fact that the ground given up by the Bush team in order to "close" the deal on START was the difference between an accord that served U.S. interests and one that manifestly does not.

The Center for Security Policy believes that, had the Reagan Administration been willing to accept so seriously defective and inequitable an agreement—had it been prepared to make the many unwarranted and dubious "compromises" with Moscow negotiated by its successor—an agreement as flawed as the START Treaty could have been accomplished years ago. It is especially stupefying that the United States would consider entering into such a deficient accord now, at a moment when the opportunity for far more satisfactory arrangements presents itself thanks to the collapse of the Soviet Union and the attendant increase in Moscow's need for U.S. assistance.

Why START must be improved

Ironically, the Administration's own handiwork implicitly recognizes this reality. The Joint Understanding signed in June 1992, in effect, amends the START Treaty by cutting the number of strategic nuclear warheads each side is (nominally) permitted to have by roughly one-half. More importantly, it also eliminates the right the former Soviet Union was accorded under START to field and modernize 154 of the dreaded SS-18 heavy intercontinental ballistic missiles and hundreds of other threatening multiple-warheaded ICBMs.

The missile force Moscow could retain under the unamended START Treaty—but not under the accord as modified in June—would leave Russia with the ability to execute a fearsome preemptive first-strike against the United States. While the threat that such an attack might actually be launched has receded for the moment (thanks to the collapse of Soviet totalitarianism and the policies adopted by democratic successors led by Boris Yeltsin), until the former Soviet Union's first-strike weaponry is actually dismantled, that threat could quickly reemerge.

Unfortunately, recent developments in the old Soviet empire have underscored the dangers of confusing permanent changes with ones that can be rapidly reversed. The renewed assertiveness of imperialist elements—evident in the increasingly belligerent rhetoric of the Russian Defense Minister, Gen. Pavel Grachev (among others)—has already translated into threats of substantial Russian military involvement in Moldova, Georgia, Azerbaijan, Armenia and even the Baltic states.

Other bloody crises may be in the making as Moscow "assists" ethnic Russians or Slavs elsewhere in the former USSR. The ascendancy in the Yeltsin cabinet of leading figures from the Soviet military-industrial complex, moreover, augurs ill for the domestic transformation so urgently needed—to say nothing of the prospects for a permanent, peaceable realignment of Moscow's foreign relations.

The need for a revised approach to START—and beyond

Under these circumstances, it behooves the Senate to use its unique status under the Constitution—that of a partner with the executive branch in treaty-making—to effect two changes in the Bush Administration's approach to strategic arms control:

First, the Senate should insist that the Administration abandon its current two-track strategy involving prompt ratification of the present Treaty and then separate action on the amendments entailed in the Joint Understanding in the form of a START II Treaty." Instead, President Bush should be directed to present as quickly as possible the fleshed-out agreements outlined in that Understanding as a protocol to START—an integral part of the original Treaty which would be considered simultaneously by the Senate.

In this manner, the danger would be reduced that the United States will be stuck with a strategic arms reduction treaty bereft of changes even the Administration agrees (at least implicitly) are needed. Whereas an effort to fix a crucial defect in START by linking its ratification to the elimination of all SS-18s might once have been resisted on the grounds that it would be a deal-breaking "killer amendment," that argument no longer applies. Today, this defect can be fixed merely by formally affixing the Russians' expressed commitment to dispense with their SS-18s before the Treaty is ratified.

In the process of such a renegotiation, other problems with the START Treaty should also be revisited. Most of these problems, like START's "grandfathering" of 154 SS-18s, were incorporated when the Bush Administration acquiesced to Mikhail Gorbachev's intransigence. If the starkly contrasting spirit of cooperation and flexibility Mr. Yeltsin seemed to exhibit in Washington is real, it should be possible to correct such other serious—but as yet unaddressed—deficiencies as:

Moscow's right to deploy hundreds of mobile ICBMs—systems designed to defeat U.S. monitoring and verification techniques;

the latitude Russia will enjoy to retain every single missile taken off-line pursuant to reductions requirements. If such systems are not destroyed, they could be used to field a significant covert offensive force; and

limitations on verification activities that preclude continuous U.S. monitoring of former Soviet missile production facilities, tagging of missiles to assist in distinguishing between legal and illegal ones, and inspection visits to sites other than those approved by Moscow suspected of concealing proscribed activities or systems.

Delay on U.S. ratification of the START Treaty would also permit an opportunity to clear up seemingly conflicting commitments made by Russia and the other three Soviet successor states now party to START (Ukraine, Belarus and Kazakhstan). As it currently stands, it appears that Moscow is determined to delay the Treaty's entry into force until the latter accede to the Nuclear Non-Proliferation Treaty as non-nuclear states—something that may not happen anytime soon.

A time for "new thinking" on arms control

Second, the Senate should encourage the executive branch to engage in some "new thinking" about arms control. Specifically, the executive branch should be urged to concentrate less on the symptomatic treatment of the residual Soviet threat (i.e., traditional arms control) and more on systemic therapies (i.e., approaches that address its underlying cause). After all, it will only be when genuine democratic political and free market economic systems have fully displaced the persisting institutions of empire and militarism that the rest of the world can hope for real safeguards against a renascent danger from the former USSR.

In this regard, the Senate may wish, both as an incentive to swift completion of a START protocol based on the Joint Understanding and as a catalyst to sweeping structural reform, to urge the Bush Administration to propose a deal: U.S. help in securing generous, multi-year relief of the $80-plus billion in international debt that was the crushing legacy of Soviet misrule once START's shortcomings have been formally fixed and the amended Treaty ratified.

By these two initiatives, the Senate could help transform the START Treaty from a major liability into a useful instrument for constructive change in the former Soviet Union and for stable, peaceful relations between this country and the successor states. Advice and consent to anything less would be an abdication of the Senate's constitutional role and a strategically reckless disservice to the national interest.

AMENDMENT NO. 3317

(Purpose: To further the interests of the United States in connection with the START Treaty ratification)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming, Mr. WALLOP, proposes an amendment numbered 3317.

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all MIRVed ICBMs, and all launchers for MIRVed ICBMs, shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, signed by the President of the United States of America and the President of the Russian Federation."

Mr. WALLOP. Mr. President, I am prepared to debate this in a few minutes but I note that my friend from New Hampshire has risen to address the Senate on the treaty and I yield the floor at this time.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH] is recognized.

Mr. SMITH. I thank my colleague from Wyoming for his courtesy.

Mr. WALLOP. Mr. President, will my friend yield for just a brief unanimous consent request?

Mr. SMITH. Yes, I am happy to yield.

AMENDMENT NO. 3260

(Purpose: To further the interests of the United States in connection with the START Treaty ratification)

Mr. WALLOP. Mr. President, I ask unanimous consent that the amendment No. 3317 that I sent to the desk be withdrawn and be replaced by amendment No. 3260 which qualifies as the pending amendment.

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

So the amendment (No. 3317) was withdrawn.

The amendment (No. 3260) is as follows:

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all MIRVed ICBMs, and all launchers for MIRVed ICBMs, shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, signed by the President of the United States of America and the President of the Russian Federation."

Mr. WALLOP. I thank my friend.

The PRESIDING OFFICER. The pending amendment is now 3260.

Mr. SMITH. Mr. President, I rise today to offer some personal comments concerning the START Treaty and to outline deep concerns I have with the manner in which the Senate is discharging its advice and consent prerogatives.

This advice and consent is a very important constitutional responsibility and under no circumstances should it be taken lightly.

Mr. President, let me begin my remarks with a question. Why on Earth is the Senate moving to ratify the START Treaty at this time? Here we are, on the verge of adjourning for the year, we have a mountain of appropriations bills, conference reports, and other legislation to consider, yet we are seeking to dispose of this extremely complex and flawed accord with very limited debate. I simply cannot understand it.

Why have we not debated this treaty earlier when we could have spent more time and Members could have had the opportunity to actually read this treaty? The treaty before us took nearly a decade to negotiate, yet we are rushing to ratify it within 2 short days in which many Members are either out of town or preoccupied with other business. I would say to my friends on both sides of the aisle if this accord is not worth spending more time on, it probably is not worth ratifying at all.

Unfortunately, it appears that the will of the Senate is to proceed with ratification. But I fear that the time allotted for consideration is inadequate for Members to fully evaluate the treaty and the ramifications of it. I ask my colleagues, have each of you had an opportunity to review the various limits and sublimits, counting rules, verification provisions, and accompanying protocols to the treaty? Have you read those? This accord will significantly affect our ability to respond to unforeseen crises for years to come. We have a moral and constitutional obligation to fully and substantively consider its implications before we consent to ratification. That is what advice and consent in the constitutional sense really means.

As my colleagues know, the START Treaty was signed by the United States and the Soviet Union on July 31, 1991, ironically just a few days before the coup. After nearly a decade of cold war haggling this action took place. The treaty establishes central limits on deployed strategic nuclear delivery vehicles, such as intercontinental ballistic missiles, submarine-launched ballistic missiles, heavy bombers, and their accountable warheads. Yet, there is no requirement, I repeat, no requirement for the destruction or the dismantlement of excess systems. In fact, both sides are free to retain an unlimited stockpile of non-deployed missiles and warheads; only deployed systems are accountable under START.

Mr. President, the reality is that the START Treaty will not require the destruction of one single ballistic missile. It will not require the destruction of a single nuclear warhead, with the possible exception of a few mobile missiles. The only thing that START actually limits is launchers. The qualifications of "deployed" and "accountable," provide a loophole whereby literally thousands of missiles and warheads escape capture under this treaty. How can anyone seriously consider this action to be legitimate arms reduction? Mr. President, it is not. It simply is not arms reduction.

Additionally, START explicitly allows each side an unlimited number of nondeployed missiles for ICBM silo launchers and SLBM launchers, and supposedly limits the sides to only 250 nondeployed missiles for mobile launchers. However, since the START memorandum of understanding on data indicates that the former Soviet side possesses only 60 nondeployed mobile missiles, in actuality they could build an additional 190 mobile missiles under the agreement.

This aspect becomes increasingly problematic since agreed statement 37 provides an exemption for so-called retired mobile missiles with a single warhead. Under this scenario, the Russians could conceivably double that part of their ICBM force by introducing a follow-on to the SS-25, then retiring the entire SS-25 force. Recent reports suggest that the Russians have already developed and initiated production of a new ICBM known as Fat Boy which could fit the definition of a new type replacement for the SS-25. Moreover, the so-called Fat Boy may already constitute a START violation since reports indicate that more than 20 prototypes may have already been produced.

Verification of compliance poses, perhaps, the greatest challenge. The START verification regime includes: data exchanges prior to treaty signature relating to numbers, locations, and technical characteristics.

It includes 12 types of onsite inspections, including inspections to verify data and observe elimination of weapons and related facilities, short notice inspections at facilities related to strategic offensive arms, suspect site inspections, and inspections to verify the number of warheads on deployed ballistic missiles.

It includes perimeter portal continuous monitoring; a ban on data encryption where national technical means are used; and creation of a Joint Compliance and Inspection Commission to resolve questions of compliance, clarify ambiguities, and discuss ways to improve treaty implementation.

Mr. President, in principle, the web of interlocking prohibitions, data exchanges and monitoring activities might seem to effectively supplement verification by nation technical means. Realistically, however, the regime falls far short of ensuring compliance. We will only be able to verify with confidence those items and areas that the other side want us to see; namely, deployment areas and some limited production and assembly areas On the other hand, there are very significant shortfalls in our ability to verify other important aspects of the treaty.

For instance, in its report on START, the Intelligence Committee states "Members of the Senate should understand, however, that U.S. intelligence will have less than high confidence in its monitoring of such areas as nondeployed mobile ICBM's, the number of reentry vehicles actually carried by some ICBM's and SLBM's, and some provisions relating to cruise missiles and the heavy bombers that carry them." In fact, the committee report indicates that the intelligence community's overall ability to monitor nondeployed mobile missiles is questionable. The report continues by stating, and I quote, "This committee remains deeply concerned, moreover, that Russia's former, and perhaps continuing, biological weapons program may indicate that the CIS /Russian military is capable of mounting or continuing a START violation, either in contravention of the wishes of Russia's civilian authorities or with the knowledge or support of at least part of that leadership."

Under START, onsite inspection is permitted only at final assembly sites and not at production sites. According to the Intelligence Committee report, "the lack of solid rocket motor monitoring will clearly limit, to some degree, U.S. capability to verify START's mobile missile provisions."

Mr. President, these statements hardly represent a ringing endorsement of the verification regime. Rather, they highlight some very serious and dangerous shortfalls in our ability to monitor compliance. Again, I would say to my colleagues, while, on the surface,

the intrusive START verification regime may seem adequate, our past experience and the assessment of the Intelligence Committee suggest otherwise.

Mr. President, I do not mean to imply that the intentions of Mr. Yeltsin and the other CIS leaders are duplicitous. But we do not know what is going to happen in the former Soviet Union. We are not sure at this point what the military could or may do.

Perhaps most disturbing about the START Treaty is the fact that the United States abandoned many fundamental and deeply important negotiating positions in order to close the deal on the treaty. For instance, from the outset, a key objective of the United States was to achieve substantial reductions in Soviet heavy ICBM's; namely, the SS-18. That was our objective throughout the Reagan administration, the United States insisted upon a ban on production, flight-testing and modernization of existing or new type heavy ICBM's. At the Washington summit in 1987, Presidents Reagan and Gorbachev agreed to limit Soviet heavy missiles to 1,540 warheads on 154 deployed missiles, which represented a 50-percent reduction.

The Bush administration, however, accepted Soviet deployment of the SS-18 in the upgraded Mod-5 version. According to the Defense Department, in its 1991 report entitled "Military Forces in Transition," "The improved lethality of the SS-18 Mod 5 offsets the START requirement to reduce heavy ICBM's by 50 percent. Assessed improvements in the Mod 5's accuracy and warhead yield give each reentry vehicle almost double the capability of those of the Mod 4 against U.S. ICBM silos, which the United States will substantially reduce under START." Thus, while START requires the former Soviets to halve their SS-18 force from 308 missiles down to 154 missiles, the post-START force will be as effective as the larger existing force.

Another key element of the original U.S. negotiating position was a total ban on mobile missiles. As my colleagues know, the former Soviet Union has deployed the 10 warhead, rail-mobile SS-24, as well as the single warhead, road mobile SS-25. The United States, on the other hand, has no mobile missiles deployed and has unilaterally terminated the rail-garrison MX and small ICBM programs. Nevertheless, under the treaty before us, the former Soviet Union is allowed 1,100 warheads on mobile missiles. These are systems which we cannot verify, and which have no comparable U.S. counterpart.

We cannot verify them and we have no counterpart. This represents another flaw, a fatal flaw.

Mr. President, the mobile missile question is immensely important. Of the many lessons learned in the Persian Gulf war, none was more sobering than the realization that mobile missiles are immensely difficult to detect, track, and kill. I would say to my colleagues, if we were unable to find Scuds in the barren desert of Iraq, we are not going to be able to find mobile ICBM's in the mountains, valleys and urban centers of the former Soviet Union. Under START, the former Soviet Union will retain a monopoly on mobile missiles and numerous avenues for militarily significant cheating.

Mr. President, we must not overlook the potential for cheating in this accord. The precedent set last year on the CFE Treaty, whereby supporters downplayed the significance of underreported equipment holdings as not militarily significant, is a dangerous one. This approach simply will not do when we are considering a nuclear weapons treaty, and a single missile could kill millions. While we all hope for the best from the new Republics of the former Soviet Union, we have a moral and constitutional obligation to be judicious in ratifying treaties. This is a very serious responsibility which may affect the lives of millions of people in the future.

Historically, the arms control scorecard of the Soviet Union is replete with circumvention and defiance. As we learned just a few short years ago with the discovery of SS-23 missiles in East Germany, Bulgaria, and Czechoslovakia, that were banned by the INF Treaty, declarations do not always correspond with deeds, Mr. President. Declarations do not always correspond with deeds. And it would be naive to assume that compliance is assured in this treaty. It is not assured.

The U.S. Senate, in trying to protect the best interests of America, has to deal with former Soviet capabilities. We do not know what their intentions are. But we do know what there capabilities are.

In its report on Soviet noncompliance with arms control agreements, dated March 30, 1992, the administration charged the former Soviet Union with continued violations of the CFE Treaty, the INF Treaty, the ABM Treaty, the Limited Test Ban Treaty, and the 1972 Biological and Toxin Weapons Convention. In addition, it has been reported that, on December 20, 1991, an ICBM was launched from Kazakhstan with its electronic telemetry encrypted. This is inconsistent with the former Soviet obligations associated with START. More recently, it has been widely reported that the former Soviet's have denied CFE Treaty inspectors full access to equipment holding sites, and there exist lingering reports of continued biological weapons production.

Mr. President, Who is really in control of the strategic weapons of the former Soviet Union? Does anybody know the answer to that question? Who determines and enforces their adherence to arms control obligations? Is it the military? Mr. Yeltsin? Who knows?

While most of us, myself included, welcome and support the efforts of Boris Yeltsin to transform the Soviet political, economic, and military culture, no one knows what the future will hold or who will hold the future in their hands. If, by some chance, Yeltsin does not endure, what will follow? Who will follow? We seem to be placing all our eggs in a basket of uncertainty. This is not wise.

As my colleagues know, the START Treaty was signed by Mikhail Gorbachev on behalf of the Soviet Union, but the Soviet Union has since dissolved. In order to help restore some legal order to the START framework, the United States and the nuclear Republics of Russia—Byelarus, Kazakhstan, and Ukraine—signed the Lisbon protocol on May 23, 1992. By its terms, the protocol is an amendment to the START Treaty, and must be ratified by all parties. The protocol obligates Byelarus, Kazakhstan, Russia, and Ukraine to make such arrangements as are necessary to implement the START Treaty and, importantly, obligates Byelarus, Kazakhstan, and Ukraine to adhere to the Nuclear Non-proliferation Act as soon as possible.

Associated with the protocol are three separate, binding letters signed by the leaders of Byelarus, Kazakhstan, and Ukraine which obligate each Republic to eliminate all nuclear weapons and strategic offensive arms from its territory within 7 years of entry into force of the START Treaty.

Mr. President, the Lisbon protocol is essential to make START a legally binding treaty. At the very least, we should ensure that it will be honored and implemented by all States parties before we allow the treaty to enter force. The Republics have yet to execute a four-party agreement on implementation and verification of START. Yet, here we are, poised to ratify under the optimistic assumption that the Republics will resolve these issues quickly and appropriately. If the quest to resolve disposition of the Black Sea fleet between Russia and Ukraine is any indication, we may have a very long wait.

As I have indicated, the START Treaty is a deeply flawed accord. The fact that Presidents Bush and Yeltsin felt compelled to negotiate and agree to conclude a follow-on treaty when we have yet to even ratify START is further evidence that it needs renegotiation. If implemented, the June 17, 1992, understanding between the United States and Russia would help to correct some fundamental flaws in the START Treaty, particularly by calling for the elimination of the entire SS-18 force. Unfortunately, translating this understanding into a viable treaty is

proving far more difficult than we were led to believe. On June 23, Secretary of State Baker advised the Foreign Relations Committee that "in the most pessimistic case," a follow-on treaty would be formally submitted to the Senate by September 1, 1992. Yet, here we are on September 29, the target date has come and gone, and there is no indication that we will see a follow-on treaty text any time soon.

I would say to my colleagues, with all due respect, the fact that we are not seeing a translation of the June 17 understanding, and that negotiations have bogged down, is an ominous indication. Again, we must ask ourselves, who is in control? Is the Russian military rebelling internally in response to Yeltsin's concessions? Does Yeltsin have control of the Russian military?

Who does control the Russian military? What about the other nation States in the CIS? Will there ever be a follow-on treaty to correct START's numerous shortfalls and inadequacies?

Should these issues not be resolved before the Senate offers its advice and consent to the START Treaty? How can you advise and consent on a treaty when you do not know what the terms are?

Unfortunately, no one can answer these questions. Senator WALLOP has tried to get answers. He has failed. Answers have not been forthcoming. But the real question is, should we not resolve these issues prior to ratification, assuming we can get those answers? The answer in this Senator's opinion is yes, we should. Absolutely. For the national security interests of the United States of America and perhaps for the world itself, we must resolve these issues.

The only responsible course of action is to recommit START to the negotiating table and update its provisions and limitations with a text embodying the June 17 understanding as well as the Lisbon protocol and its side letters. Such a comprehensive accord should also address the issue of ballistic missile defense. In the post cold war world, we need to move beyond mutual assured destruction to establish a deterrent posture which integrates both offensive and defensive forces. We can no longer consider elements of the triad and missile defense in isolation. Rather, they must be considered as integral elements of a comprehensive strategic package. Relaxation of the burdensome ABM Treaty restraints should accompany strategic arms reductions to make our deterrent policy more responsive and appropriate to the changing international security environment.

Mr. President, frankly I do not hold much hope that the Senate will discharge its advice and consent obligations on the START treaty in a responsible manner. Unfortunately, apathy has replaced vigilance here in the Senate, and without a second thought—with very few Senators debating—this body is railroading the most far reaching, militarily significant, and fatally flawed Arms Control Treaty in our history through with only cursory debate.

It may turn out to be fine. We may get lucky and everything may fall into place. The weapons may be removed and turned over to us for verification. The military may not attempt to reexert its control. Yeltsin may live forever, to be followed by another democratically elected President in Russia.

But do we know for sure? Are we sure, Mr. President, that is what is going to happen? If we are not sure we ought not to be voting to ratify this treaty.

Moreover, not one of the jurisdictional committees heard testimony from a witness who opposes ratification of the treaty even when, as in the case of the Armed Services Committee, it was specifically requested by numerous members. This does not speak well for our institution, and I fear that history will exact a toll for our neglect.

It does not speak well for this institution, when those who want to hear the opposite side do not have the opportunity to hear it at the committee stage. That is simply wrong. It is not what the Founding Fathers had in mind when they drafted the Constitution and established the Senate.

In closing, Mr. President, I want to express my profound admiration and heartfelt appreciation to the Senator from Wyoming, Mr. WALLOP, for having the courage and the integrity to challenge this process. It is very easy to jump in the canoe and go downstream, but when you get in the canoe and try to paddle upstream and take on the system, it is much tougher.

The ratification process has clearly been corrupted when no dissenting witnesses were allowed to testify, and the Senate becomes nothing more than a rubberstamp for major arms control accords. That is wrong. Senator WALLOP has spoken to it eloquently. I only wish more of my colleagues had the wisdom and fortitude, like my friend from Wyoming, to discharge their constitutional responsibilities in a manner worthy of the trust placed in us by the Framers.

History will judge Senator WALLOP kindly for his leadership on this issue, and I hope and pray that the mistakes we make today will not prove fatal. The Senator from Wyoming has done a tremendous service to the American people. We owe him a debt of gratitude. I thank the Chair, and I yield the floor.

AMENDMENT NO. 3260

The PRESIDING OFFICER. Under the previous order, amendment No. 3217 is withdrawn and the pending question is amendment No. 3260. The Senator from Wyoming is recognized.

Mr. WALLOP. I thank the Chair and I thank my friend from New Hampshire.

As I stated this morning, I feel very seriously about this issue. If I am wrong, and I am quite prepared to cede that that is a possibility, all of us, including me, will be only too happy to sing songs of praise and thanksgiving for those things which no longer threaten us. But if I am right—and those few of us who have this anxiety—there will be nobody around to hear us cry. The Nation will cry.

Mr. President, this amendment calls for a ban on MIRV'd ICBM's. It is in essence the same kind of a ban that would be called for in a subsequent amendment that I have filed and will not offer on heavy ICBM's because all of those are multiple reentry vehicles.

In recent years, I do not know how many Members of the Senate, the Armed Services Committee, the Foreign Relations Committee and other independent-minded folks have criticized the executive branch, both Reagan and Bush, for failing to seek a ban on intercontinental ballistic missiles equipped with MIRV'd warheads. The shame of this amendment—and I have no doubts about whether or not it will pass, but the shame of it is that those who have called on the Presidents of the United States for this ban will now vote against it.

A criticism of theirs, and it was mine, has emanated from a philosophy of arms control and strategic stability to which I have never personally subscribed. In my view, the MIRV'd ICBM's, like MX Peacekeeper, in the right hands, have been an indispensable part of a cost-effective U.S. nuclear deterrent posture. Those who will vote against this amendment were trying to neuter the United States power. Now they have succeeded in doing that essentially and succeeded at the same time in enhancing the power of the multiple warhead missiles of the former Soviet Union.

I agree—I did agree before—that in the wrong hands, such as the Evil Empire, the former Soviet Union, and those residual elements that remain which have continually been brought to mind as the reason we must pass this treaty so that we can enhance the power and strength of the democratic forces lest they be toppled by those waiting in the wings with less kindly disposition toward the United States and toward peace in the world—it is ironic that somehow or another we are using the means by which we enhance their power as the argument which will bring them to a table somewhere down the road to seek that power.

Mr. President, that is not in human nature. It was not when Girard Smith, having negotiated the ABM Treaty, worried about the numbers of heavy ballistic missiles growing on the Soviet side and said that within 5 years, if we

had not achieved real reductions, we ought to withdraw from the treaty. We did not achieve real reductions, and we did not withdraw from the treaty. It is not human nature to suppose those who have been ceded an exquisite margin of power will willingly give it up. And if they will, then the provisions of this treaty are equally not necessary.

Now, Mr. President, it is true that MIRV'd ICBM's have the inherent potential to be used in a first strike against the United States. What we have done under the provisions of this treaty, which everybody says is going to reduce the number of weapons arrayed against us, is allow the SS-18, modified, to be put in place in, albeit, smaller numbers, but by the recognizable admission of the intelligence community and the armed services community, the military intelligence, a condition that is the equivalent of the less able force which it replaces, and because of the quirkish nature of the words of this treaty they become nondeployed missiles, they do not get destroyed. My friends all over America, get it into your mind, nothing needs be destroyed under the terms of this treaty.

So what I am suggesting is that the treaty and its memoranda and protocols not enter into force until the President certifies that all the MIRV'd ICBM's and launchers for them will be eliminated in accordance with the agreement already reached by the President of the United States and the President of the Russian Republic. This does not require a negotiation, Mr. President. Our two Presidents have said that that is what they wished. Only the dilatory nature of the Secretary of State, occupied with other things this summer, made it impossible for him to deliver on his promise to bring that treaty back here by the 1st of September.

Now, even if the former Soviet forces are reduced in accordance with the terms of the START Treaty, and everybody does what we pray and hope that they will do, with conservatively 2,400 highly accurate lethal warheads aboard the SS-18 and the SS-24 MIRV'd system, the threat to America remains unacceptably high. It is, therefore, of more than a passing interest that almost a year after START was signed, both the Bush administration and the Russian Government have embraced the position that neither side should have these weapons. They have agreed, according to a joint understanding which both of these Presidents have signed, Mr. President—President Yeltsin and President Bush signed on June 17 a joint understanding to eliminate all such weapons by 2003 or perhaps as soon as 2000.

The complete and verified elimination of the former Russian Republics, or the former Soviet Union's SS-18 force and its SS-20 force and any and all MIRV'd ICBM's would go so far down the road toward alleviating some of my concerns about the deficiency of the START Treaty that lies before us today. I presume that it would also greatly appeal to those of my colleagues, particularly those on the other side of the aisle who have been demanding this outcome for years and years and years in the arms control process.

But watch them, Mr. President. Today, though they have demanded, for whatever reason, political or sincere concerns, strategic stability, they will now find it not in their interest to vote in the way in which they have prattled in this Senate for years.

As virtually all of us can agree, the two Presidents, most of the Senators in this body in the course of the last 10 years have agreed that realizing the prompt codification of the complete ban on MIRV'd ICBM's would be the most desirable thing.

I believe the only question is how best to accomplish it. And we are now told by the administration and by the treaty's Foreign Relations Committee proponents that the best way to do that is to give the Senate's advice and consent to a treaty that does not do that. How very quaint. Perhaps when all of this process is done Gilbert and Sullivan might arise someplace and write some political musical about how things we wish to do are achieved by doing precisely the opposite.

In fact, the treaty does quite the contrary insofar as it legitimizes, albeit, at reduced levels MIRV'd ICBM's, and once this is accomplished, we assure the momentum will be imparted to the negotiations just begun on translating the joint understanding into treaty text.

That treaty, dubbed START II, which was ignored by the Foreign Relations Committee and the plea of the Armed Services Committee for an understanding or a condition will be said to be available for ratification shortly.

But, Mr. President, they only started to negotiate last week despite the fact that the Secretary of State promises we can have it in September. With all due respect, I believe that this contention is preposterous. It is as improbable as it is illogical.

The administration assured the Senate back in July that START II would be completed by Labor Day. No one knows, all other things being equal, how long it is going to take to finish these negotiations. And the reason the treaty has been delayed already, and the reason this negotiation will surely be dragged out in the future, is that its terms might actually be mutually advantageous and not disproportionately in favor of the former Soviet Union, the newly independent Republics.

If the Russian military are labeled to lock in an agreement such as that contained in START I that serves their interests, who can explain why they think that they will find within that arms control community an assent to an agreement that would strip it of some of the triumphant inequalities in their favor that are contained in this treaty?

Obviously, if we are serious about securing improvements in START, we should do so now before it is ratified. We are just kidding ourselves as we have done time and time again in the past if we believe that the next agreement will be better, will compensate for some of the present accords' shortcomings even though this Senate blindly chooses not to insist that the problems with the present agreement be fixed first, even though the President of the United States and the Russian President have identified those problems.

Accordingly, Mr. President, I hope, though I have little conviction, that my colleagues who are serious in this commitment to achieving a MIRV'd ICBM ban will recognize that this is the last chance. A vote for my amendment to modify the START Treaty so as to incorporate a ban on MIRV'd ICBM's will assure that this agreement, and not some will-o'-the-wisp, plea-to-the-tooth-fairy, subject-to-change-without-notice future agreement, becomes the vehicle for achieving this objective. It will not happen, Mr. President. Mark my word.

I yield the floor.

The PRESIDING OFFICER. The distinguished senior Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I do not think that we are entering into this treaty blindly. But, I think of all the 20 hearings that we had, the witnesses who came before us, some skeptical, mostly proponents of it, and with this hearing background, the most impressive testimony was the fact that the Chairman of the Joint Chiefs, and each of the Chiefs of the military joint staff enthusiastically support it. They stood, all five of them, five-square behind this treaty, urging us to ratify it.

This particular amendment is a little bit like putting the cart before the horse because usually treaties talk about the future without having conditions for the past on which they would rest. And in this case, I think the best way of getting rid of the MIRV'd vehicles, MIRV'd weapons missiles, is to move ahead on the START Treaty.

But I must say, just speaking personally, I can remember not too many years ago that I personally urged the administration not to move ahead with MIRV'ing, receiving the argument at the time that if we did not do it, the Russians would do it. The fact is, we agree now, we are trying to unravel, unscramble that past decision on MIRV with the START Treaty.

The PRESIDING OFFICER (Mr. DIXON). Is there further debate on this amendment?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The distinguished senior Senator from Indiana.

Mr. LUGAR. Mr. President, there is no question that codification of any sort of the essential features of the June 17 joint understanding between President Bush and President Yeltsin would be highly desirable.

Let me simply indicate my understanding is not that the United States Secretary of State has been dilatory but that a draft as sent to Russia has been caught up in the difficulties and complexities of running that State under very difficult times. The Foreign Minister Kozyrev of Russia has informed Acting Secretary Eagleburger that there are no particular hitches involved, simply difficulty in getting concentration of Russian authorities on those particular points of view.

But I would point out respectfully, Mr. President, that not only would the June 17, 1992, joint understanding which forms the basis of what is often called a START II Treaty result in major reductions, it would, in fact, lead to the elimination of the MIRV'd ICBM's that are in discussion today, including all heavy ICBM's that were the mainstay of the Soviet threat during the cold war.

The Senate should do everything it can to encourage such a result. Perhaps this debate will help stimulate activity on both sides.

Unfortunately, an attempt to stall implementation of START I is the wrong way to proceed. START I, first of all, is a multilateral among five parties—Byelarus, Kazakhstan, Ukraine, as well as the United States and Russia.

START II or any type of bilateral agreement between Russia and the United States dealing with the MIRV'd ICBM's in discussion in the amendment of the distinguished Senator from Wyoming for really a bilateral treaty or bilateral understanding, and that is only logical since these issues deal with the period after the strategic offensive arms have been eliminated from the former three Soviet Republics, Kazakhstan, Byelarus, and Ukraine.

In short, Mr. President, logically START I, a five-party treaty, multilateral treaty, precedes that situation of a bilateral treaty between the United States and Russia, or a bilateral understanding as the case may be. Thus, at a minimum, the amendment we are discussing would delay the implementation of START I.

Article 18 of the treaty under discussion today requires that any amendment to the treaty be ratified by all parties, and that means Byelarus, Kazakhstan, and Ukraine, to the extent that we get into elements of START I. We certainly do because we preclude implementation of it by the amendment before us now. Those other States would necessarily have to be involved. That would clearly complicate the procedure substantially.

Furthermore, although the distinguished Senator from Wyoming has mentioned the fact that the two Presidents, our President, George Bush, and Boris Yeltsin of Russia, have entered into this understanding, clearly have a vision of how it ought to go, those visions understandably are something different than treaty language.

With all the interpretations that are required, in both languages, those of us who have had any experience in this situation, the distinguished Senator from Wyoming certainly has, as well as the chairman of the Foreign Relations Committee, and I, understand how difficult it is to arrive at exactitude of language and how important that is with regard to treaties.

So something beyond the joint understanding of June 17 is required; in fact, negotiation of treaty language, a process in which hopefully Secretary Eagleburger and Foreign Minister Kozyrev, or their staffs, are now involved. If delay of START I were the only consequence, that would be difficult enough, but requiring that the MIRV situation be concluded before START I comes into force actually reduces the possibility of START I, the treaty before us today, ever being implemented. Conceivably, that is the purpose of the amendment. But even if it is not the purpose of the amendment, it is a likely consequence.

Let me just say, Mr. President, that clearly, as the debate both yesterday and today has indicated, there is indication within Russia of argument within the Russian military. Apparently, some elements of the Russian military are especially sensitive to the negotiations of President Yeltsin on June 17, as well as the notion that Russia in any way is being dictated to during its current economic crisis. Holding up START to force any element of the joint understanding in the process would be seen clearly in many corridors of Russia as putting demand on them that they take the next step beyond START I, that the two of us have signed, as a price for us to take the first step. This type of bait and switch strategy could clearly rekindle substantial arguments within the Russian military with regard to START I—the bird we believe we have in hand, as opposed to the agreement we are reaching for and trying to negotiate. It would delay a treaty that we can bring into force soon, as opposed to making it impossible to complete either.

Let me just say simply that delaying START I sends the wrong message, in addition to the very powerful State of Ukraine, an independent State with whom we are fashioning strong relations; and certainly to Byelarus and Kazakhstan, and Kazakhstan already ratified START I. We would be saying by adoption of the Wallop amendment today that these States are relatively unimportant. In START, what really counts also is the bilateral relationship with Russia on the MIRV's, and the rest of our five-party negotiation can simply wait—perhaps not even occur at all.

Let me just say that there has been substantial debate in this body on the inadequacy or adequacy of Senate consideration of the START I Treaty. I just say once again, for the record, that the administration has now written answers to more than 1,100 questions that have been offered by Senators. That is a substantial amount of interest. The body has been characterized as apathetic. I just want to set the record straight—1,100 inquiries, all answered in writing. Let me say simply that there were 30 hearings held by 3 committees, and I say that there has been very substantial understanding of the elements of this treaty for years—not simply in the very intense period of the hearings and the questioning.

Mr. PELL. If the Senator will yield for a moment, I would like to demonstrate the number of pages, over 1,000. They weigh several pounds, and one can see the amount of wordage in these responses by the administration to the committee's questions.

Mr. LUGAR. I thank the chairman for a dramatic and graphic illustration of the volume. But there it is.

Yet, it is very curious that we would adopt an amendment today, which is very far-reaching and a very important and desirable arms control objective—the end of MIRV—without hearings, really without the questions, without the careful drafting of language. In essence, the very criticisms leveled at the drafters of this treaty who have labored for years, who have tried to bring precision to language, safety and security for our country, which might very well be scrapped as we reach for the joint understanding of June 17, which as I have indicated is ardently being sought, and language negotiated, and the process is obviously difficult.

When elements of the June 17 understanding have been incorporated either in START II, III, or into any other treaty form, the Senate will have a full opportunity to inquire into it. Committee meetings will be held. Hearings will be held. Questions will be raised, and there will be a full debate and study by independent authorities.

But let us recognize that START I is a major accomplishment in itself. It is START I, the treaty before us today, that locks in the major reductions.

Let me just clear the air for a moment, Mr. President, because so much has been said that not a single missile is being destroyed. I have the feeling this is almost totally inconsequential. Let me say that it makes a difference if the launchers are destroyed. It is a point, clearly, that has been made that

some missiles can be fired from naval vessels. Some can be dropped from the air. But, nevertheless, Mr. President, it makes a substantial difference to destroy seriatim the launchers of the ICBM's. That is incorporated in START I. A lot of other things are, too, in terms of basic limits of the various systems. But that makes a difference. That is why START I is consequential in itself. It is a building block upon which we can reach conventions of the June 17 understanding, a dramatic agreement, and one I hope will be flushed out quickly and that perhaps, as I say, our debate today may accelerate.

So, for all these reasons, Mr. President, let me just say that the adoption of the Wallop amendment before us, in essence, would negate START I. We would have to go back for renegotiation, or it would be delayed so very substantially and the disruption of the five parties—the recriminations involving those are incalculable. It is a very, very heavy price to pay for reaching for a treaty which is not yet there, not negotiated, not heard, not very well considered at this point.

In short, the Wallop amendment is what could be characterized accurately—not pejoratively—as a killer amendment. It effectively terminates our work with regard to START I. It advocates its defeat. And I hope Senators will oppose the amendment.

Mr. WALLOP. Mr. President, I will be brief in my arguments. First, it was not the Senator from Wyoming who promised that the June 17 agreement would be reduced to a treaty and presented on the floor of the Senate by Labor Day. It was the Secretary of State. It was not a contrivance of those who oppose this treaty. It was a promise of the Secretary of State.

We are told that there were 30 hearings held on this by three committees. Well, Mr. President, the able occupant of the chair is a member of the Armed Services Committee of the U.S. Senate, and he will recall that we had 20 hearings in the Armed Services Committee alone on the INF Treaty, but only one on the START Treaty. And none of the 30 hearings in any of the three committees allowed a dissenting voice. I say those words and choose them very specifically, Mr. President—allowed a dissenting voice.

So I do not think it is fair to say that they have had the kind of careful consideration that the Senate has normally given to a treaty. But we are in this brand-new world in which one cannot conceive of trouble on the road ahead.

Mr. President, it was said that the Joint Chiefs uniformly have found this to be in their favor, but if anybody knows the history of arms control, the Joint Chiefs of Staff of the American military have always endorsed treaties negotiated by civilians—always. And they have done it for two reasons. One, it is the civilians who specifically, under our system, run the military. Thank goodness. But most important, the Joint Chiefs have never been satisfied with what Congress has given them, so they have used the treaties to try to get our enemies over the course of time—principally, this half century the Soviets, but prior to that, the Germans and the Italians—to solve our strategic problems for us.

Knowing that, the appropriations process sometimes did not admit to the new and innovative responses to known dangers. What we did was try to say to the Soviets, and before that the British did it with the Italians and the Germans, to try to say we will be nice if you will be nice and let us sit down and figure out how this works.

But those of us who have struggled over the years to try to maintain some level of equality of American capability against those forces arrayed against us know no treaty did anything except accelerate the arms race until recent these ones. This one does not accelerate it and I will accede to that. It neither recedes it or slows it anything like the proponents claim for it.

We are talking about this amendment delaying implementation of the treaty. But the statements of the republics that they will not yield up, under the terms of the treaty, the nuclear weapons on their territory until they are destroyed under international controls is a condition that means that for them this treaty will not go into effect and for us it will.

There are no calls for the destruction of missiles in the terms of this treaty. There are no calls for the destruction of missiles under the terms of this treaty. Yet the conditions that the Ukrainians, Byelarussians, and Kazakhstanis put on this, they will not cede those weapons back to the central authority until they are destroyed under international controls, something that is not required. And that, too, is a condition before they join the Nonproliferation Treaty.

So it is hard for me to understand how, when we say take out the MIRV'd ICBM's according to the agreement promised and signed by the two Presidents of the Russian Republic and the United States of America, and ably defended and promised for deliverance by the Secretary of State by September of this year, we can be accused of delaying when the terms and conditions of the newly independent republics are of themselves in the nature of a delay.

The able Senator from Indiana has said that we claim that it makes no difference if launchers are destroyed. I do not make that claim, Mr. President. I do not make that claim. Destroying a launcher does inhibit the convenience of those who wish to launch missiles. But surely the Senator would yield this point to me and that is that most of the heavy ICBM's of the Soviet Union can be relaunched from existing silos. So all you do while you do not destroy the missile and only destroy the launcher is you minimize the number of those in which for a moment the missile can be launched with convenience, but can be launched in a moment's later time, a week's later time from that same silo.

That is not a condition that exists with American missiles. We do not have refired capabilities in our silos and the Soviets do. So the destruction of some launchers is a matter of inconvenience. But make certain that this other point rests in the minds of the Senate: Every single international ballistic missile of the former Soviet Union and the republics has been fired outside of its silo accurately. It has been tested and it has been tested successfully.

All Russian missiles are routinely tested from what are called soft pads; that is, just concrete pads. The silo is a convenience. It makes a nice place for people to store their helmets and reading materials and other things while they are on alert. But that is all it is. It is a convenience. It is not a necessity. And to say that because the launcher is destroyed but the missile that was in it is not destroyed, that we have somehow or another enhanced our safety is, I believe, a misstatement of the relative nature of truth in this agreement.

Mr. President, I have one other point: That in the Republic of Kazakhstan, also a signatory to this signature protocol, there are new deployments of SS-18 missiles, those that are going to be reduced under the terms of this treaty.

So I would say, Mr. President, that I am prepared to go to a vote on this amendment now, and I believe also, Mr. President, that we are on the threshold of achieving an agreement as to how to handle the remainder of this debate.

The PRESIDING OFFICER. The distinguished Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

I will just engage in a discussion with the distinguished Senator from Wyoming and ask him the question if it would be permissible for the Senator from Arkansas to go into morning business for 2 minutes for the purposes of making a very short statement and sending a resolution to the desk to be referred on another matter?

I would like right now, if I might, to ask the distinguished Senator would it be possible if I could do that before the vote? And I ask the distinguished managers the same. Would there be objection or any concern expressed—if you would desire to go directly to the vote I could do it later. I think it would be well served, it would be a little better if I could go earlier.

Mr. WALLOP. Mr. President, reserving the right to object, I say to my friend, that I will not object so long as it is for the purposes stated, that no other transaction take place during this momentary reversion to morning business and that the rules of the executive session of cloture remain in place.

The PRESIDING OFFICER. With those conditions, is there objection to the request of the Senator from Arkansas?

Mr. PELL. Mr. President, it would include time under the treaty debate.

Mr. PRYOR. That is correct, I say to my friend from Rhode Island.

With that being agreed to, I will ask unanimous consent that the time, which will not exceed 2 minutes, be charged to the pending measure before the Senate.

The PRESIDING OFFICER. Without objection and under those conditions, the distinguished Senator from Arkansas is recognized as if in morning business for 2 minutes.

Mr. PRYOR. I thank the Chair.

(The remarks of Mr. PRYOR pertaining to the submission of Senate Resolution 353 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. What is the pleasure of the Senate with respect to the amendment offered by the distinguished Senator from Wyoming?

Mr. WALLOP. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Wyoming [Mr. WALLOP].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

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

The result was announced—yeas 16, nays 83, as follows:

[Rollcall Vote No. 247 Ex.]

YEAS—16

Burns	Hollings	Smith
Coats	Lott	Symms
Craig	Mack	Thurmond
Garn	McCain	Wallop
Hatch	Seymour	
Helms	Simpson	

NAYS—83

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

NOT VOTING—1

Gore

So the amendment (No. 3260) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I rise today to express my most enthusiastic support for ratification of the START Treaty. As a member of both the Foreign Relations and Intelligence Committees, I have had the opportunity to examine this treaty in detail. I, like my colleagues on the committees, have concluded that this treaty is an historic breakthrough for U.S. national security interests and international partnership and world peace. It bears witness to the end of the cold war, and heralds the beginning of a new, more open era. It should be ratified promptly.

I have devoted a great deal of my time, attention, and effort toward the almost quarter century I have avowed in the Senate, to arms control treaties and efforts to control and reduce nuclear arms. START is the last one I will deal with as a Senator.

This treaty was negotiated with the Soviet Union at a time when its strategic arms reduction and verification regimes were close to revolutionary. During the ratification process, the Soviet Union fell apart, and new countries emerged. Four of those—Russia, Ukraine, Byelarus, and Kazakhstan—had nuclear weapons which had to be included in the START Treaty.

In Lisbon in May 1992, leaders of these countries met with Secretary Baker. I was impressed with the spirit and conduct of these negotiations, and commend Ukraine, Byelarus, and Kazakhstan for their commitments to accede to the Nuclear Non-Proliferation Treaty as nonnuclear weapon States. I hope they will stand by those commitments. This is definitely a step toward peace.

Further announcements by Presidents Bush and Yeltsin in June have promised even deeper cuts than START mandates. These reductions seize an opportunity to deal with short-range and tactical weapons not covered by the START Treaty. While I am enthusiastic about these reductions they do not serve to replace the START Treaty.

The START Treaty stands alone as the most important document we have negotiated on strategic nuclear weapons reductions thus far. Other promises have been made, and other documents will be concluded, but we should not miss the historic opportunity to codify what we have.

START not only mandates deep cuts in our nuclear arsenal, but also it creates a framework for further reductions—either unilateral, reciprocal, or negotiated.

The treaty is also remarkable in its open verification regimes. The regime is certainly adequate and it is clearly effective. It establishes such a level of openness, in fact, that some experts who testified before the committee described the treaty as overly verifiable.

Most important, at this point in time, however, is that ratification of the START Treaty would signal to other nuclear weapon States that the United States and Russia are serious about arms control.

After all of our talk of concern of nuclear proliferation, the START Treaty gives us an opportunity to demonstrate that we are serious about nuclear nonproliferation by taking that crucial step toward extension of the Non-Proliferation Treaty in 1995. I fully expect that other countries which possess nuclear weapons will consider cuts in their arsenals once they understand that the United States and Russia are making cuts in theirs.

I urge my colleagues to ratify the START Treaty. We should seal the book on the cold war, and begin to rewrite one on a new era, one dedicated to peace and security.

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

The PRESIDING OFFICER (Ms. MIKULSKI). The majority leader suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Madam 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. Madam President, I ask unanimous consent that Senator WALLOP be recognized to offer his amendment No. 3301, on which there be 1 hour for debate, 30 minutes under the control of Senator PELL, 30 minutes under the control of Senator WALLOP; that on the conclusion or the yielding back of that time, a vote occur on or in relation to the Wallop amendment No. 3301; and that the vote on final passage of H.R. 11 scheduled by previous order to occur at 5 p.m. occur immediately

following the vote on or in relation to the Wallop amendment No. 3301 without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I thank my colleagues for their cooperation.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 3301

(Purpose: To further the interests of the United States in connection with the START Treaty ratification)

Mr. WALLOP. Madam President, I call up my amendment No. 3301, and ask for its immediate consideration, and I ask that we have order in the Chamber.

The PRESIDING OFFICER. The Senator from Wyoming is correct. Before the clerk reports the amendment, the Senate is not in order.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 3301.

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all Non-Deployed Missiles for silo launchers for ICBM's, mobile launchers of ICBM's, and launchers of SLBM's, shall be eliminated, except for a finite, minimal, and verifiable number equal for each side to be agreed upon."

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. WALLOP] is recognized.

Mr. WALLOP. Madam President, may I say that I was most grateful to the Senate for the consideration given the last amendment, the seriousness of which is continued in this amendment.

Madam President, I have talked with a member of the Foreign Relations Committee who expressed to me his personal surprise at the terms and conditions dealing with nondeployed missiles and wondered why the committee had not acted on them while he being a member of the committee being in a better condition to ask that question than I.

But it is a point I wish to bring to the attention of the Senate once again and hope that we maybe can by seeking to have the President certify that all mobile launchers shall be eliminated except for a finite minimal, and all mobile launchers, silo launchers, and launchers for SLBM's be eliminated except for a finite minimal and verifiable number which are test articles and agreed to by each side.

Madam President, central to the treaty's ostensible and propounded value in reducing the offensive power of the former Soviet Union strategic arsenal which has been reiterated and reiterated, is the limitations imposed on the number of intercontinental range delivery vehicles and their launchers. Given the nature of Moscow's strategic forces, namely, the disproportionate emphasis on ballistic missile systems and, in particular, the reliance on those missiles optimized for first strike; that is, the silo-based MIRV'd ICBM's, the limits on these weapons are said by its proponents to be of particular importance.

Yet, Madam President, under the terms of the treaty, Russia is entitled to have as many of these ballistic missiles as they want. They have been told that this was a limitation but it is a limitation on launchers and not on missiles. These nondeployed missiles do not count, are not destroyed, and yet remain available for use against the American public in a first strike.

It can do this thanks to a very important and unspoken of loophole in the treaty that is agreed to by the United States and the Soviet—I might say Soviet not Russian—insistence late in the negotiations. Madam President, everybody knows here that this treaty came into being at the close of frantic negotiations so that there could be a summit with Mr. Gorbachev while we tried to save that presidency.

So we made concession after concession, and the biggest concession in this Senator's mind was that we placed no limits on the number of nondeployed ballistic missiles either side can retain in its inventory.

A nondeployed missile is one that has simply been taken out of its silo but it does not need that silo, that submarine, or that mobile launcher to be useful, to be launched against the American people. That, let us be clear, every single one of these missiles that the proponents claim is eliminated or reduced by this can be kept viable in a nondeployed status, and every single one of these has been and can be launched from sites other than the fixed silos or submarines in which they are normally deployed—every single one.

So this is a limit without limitation. This is a ruse. This is a dream and a prayer to the tooth fairy, Madam President. These missiles once declared nondeployed can be used against Americans. And they are not counted. They are not eliminated. And they are not destroyed.

In fact, according to press reports, the Soviet Union actually exercised the ability to launch even its heavy missiles, its SS-18's, from soft pads.

Madam President, I have made the point and I hope and wish somehow the Senate could hear it.

The SS-18 missile is the most terrifying missile in the Soviet arsenal, in the world today. We have negotiated a reduction in the Soviet arsenal from 308 to 154, cut it in half. But at the same time, we authorize that missile to be replaced by what is called the Mod 5, the fifth model of it, which is by itself, the equivalent in power and accuracy to the Mod 4, which it replaces—I mean, more than twice as much. So that what you have is the new Mod 5 deployed in numbers equivalent to half of the old deployment, but with every bit the power and accuracy and delivery of the old deployment.

If that is not bad enough, the reduction by half of the SS-18 force amounts to no reduction in danger; all of those older SS-18's, the Mod 4's, are taken from those silos and can be declared nondeployed and ready for use against America, without violation of this treaty.

In addition, the Soviet Union has built into many of its modern silo-based ballistic missile systems, the capacity to reload and refire. I might say, Madam President, and try to explain this to the Senate, when we destroy a launcher, we do not destroy a missile or a warhead. A launcher is basically the place where a missile is safest. It is a hardened silo, and it is impenetrable by most of the weapons the United States can array against it. It is a convenience for working on the missile, and repair and maintenance. But it is not a necessity for that missile to remain in a capability of firing on the American people.

So we have these modern weapons that do not count any longer; they are withdrawn and declared nondeployed. But guess what happens? Most of those silos can refire. Ours cannot. So you fire the one that is allowed and bring the nondeployed missile in and load it into the same silo, ready again in a few weeks' time for use against the American people, who will not have had the same indulgence, should this awful day take place.

I believe it is a thoroughly unacceptable state of affairs, and unless we alter it, it fundamentally corrupts whatever benefits claimed by the proponents of this treaty—I believe they are sincere—whatever benefits they claim for it are negated by this concept of the nondeployed missile. That the nondeployed missile can be fired against it does not count in the limits, and does not have a reduced capability to bring harm against the American people, against whom they are arrayed.

Accordingly, Madam President, I hope my colleagues will heed the warning of the nondeployed missile and the ruse that is present in it. It is the means by which the missile reductions do not take place. The missiles are not destroyed. The warheads are not destroyed. The weapons are not destroyed. Only the launcher, only the shelter and the convenience are destroyed.

So if it is the Senate's will to ignore this, I accept and understand that, Madam President, but I would feel that I had not done the duty that I feel compelled to if I did not call it to the Sen-

ate's attention and offer this amendment, and I hope the Senate sees fit to take care of the biggest ruse contained in this treaty, that of the nondeployed missile, so that when my amendment passes, should it, it would impose finite minimal and verifiable limits on the number of nondeployed missiles. And those finite, minimal, and verifiable are the necessary test vehicles to maintain the viability that both sides should be entitled to. But all of the other ones that are now the claim of the treaty's proponents to have been removed from the stable of danger would in fact be removed and not just the fairytale that somehow or another we are safer, because they are not in the silo, they are just in a nondeployed status.

I reserve the remainder of my time.

Mr. PELL. Madam President, as I understand it this amendment would require the extending of the limits to cover all nondeployed ICBM's and the SLBM's. The Joint Chiefs of Staff and others have testified that there is no military requirement from their viewpoint for such a limit. In fact, we have seen how they have enthusiastically supported the overall START Treaty. The members of the Joint Chiefs are foursquare behind it, as is the Chairman, Gen. Colin Powell.

The nature of the SLBM operation and the limited number of Russian loading facilities limits the threat from rapid reload of ballistic missile submarines. It would appear not necessary to add such a provision. In addition, this amendment would require negotiation of major portions of the treaty with all the successor States—Ukraine, Byelarus, and Kazakhstan—in advance of any action on START, leading to an indefinite delay in entry into force.

I think this amendment can be considered a repudiation of the basic treaty. I do very much trust the judgment of the Joint Chiefs of Staff and think this amendment should be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Madam President, what is the remaining time?

The PRESIDING OFFICER. The Senator from Wyoming, the advocate of the amendment, has 20 minutes, 25 seconds. The opponents have about 28 minutes.

Mr. WALLOP. Madam President, it is clear that the able managers of the bill feel that—and I share with them the sensation—they will be able to prevail on any amendment offered simply by saying, we have to renegotiate with the Joint Chiefs, and the Joint Chiefs are for it.

Madam President, if the Joint Chiefs have signed off on this, then shame on them, because it is not a military judgment that can be argued safely, that a missile going to nondeployed status, still available to be arrayed against the American people, constitutes no threat.

It does not have to be held in a verifiable arena. It can be put in sheds. It can be moved around and about the country. We have no verification regime which would direct itself to this. Interestingly enough, Madam President, the Joint Chiefs were worried enough about mobile missiles to put a finite ceiling on the number of nondeployed of those missiles. So what a ridiculous posture for grown military men with stars and ribbons all over them to take that missiles that can be fired against Americans and do not count against the numbers and pose no threat.

I would love to hear the rationale behind that, other than that it might, as the able chairman says, require major renegotiation. I do not think it would.

Why would it be any less than the Soviets' or Russian Republics' interest to find that the missiles that had been taken out of silos were not still available to be shot at them? Simply because that is not the way the United States would play it, and that is the way the whole hard-line arms control negotiators under the Soviet regime negotiated this provision.

This was a concession of significant importance that was achieved at the last moment for the political purpose of arriving at a summit with Mikhail Gorbachev, and no other reason. And I would say, Madam President, that those very same Joint Chiefs, who now find no danger in these nondeployed missiles that are deployable against the American people, thought that was one of the very most important and significant negotiating positions that the United States brought to the table.

It has been significantly noted in the paper by General Rowney, who was our arms control negotiator through most of these START negotiations, that this was a last-minute, unnecessary, and very dangerous concession.

Why should these able generals who thought it was among the most important negotiating postures that the United States had suddenly say that it does not matter that these missiles now called nondeployed can shoot at Americans?

There is no logic in this posture, Madam President.

I hate to use the word "deceit." But, in fact, we are deceiving the American people by claiming that this treaty reduces or eliminates missiles arrayed against them when in fact this provision runs right around the limitations that are contained in this treaty.

Madam President, some moment in time the Senate needs to wake up and pay attention to its obligation to protect and defend the Constitution of the United States and the people of the United States. This is not, as Senator BYRD stated in his eloquent remarks, some statute that can be undone by a statute down the road when we find it is there. This becomes a part of the guiding unchangeable presence upon which the U.S. military posture is bottomed. We cannot change it after we agree to it. And we are being asked by these folks here to say that these missiles that can be shot against us pose us no threat nor no danger.

The Senator from Wyoming spent too much time in the country, if that is logical. Why a missile, because its title has been changed, poses no threat is almost an inconceivable thought, deployed or nondeployed. So long as its warhead is intact, so long as its electronics are in place, so long as its propellants are available, it is a threat to Americans. Make no mistake about it.

And that is the case that we are being asked to swallow.

Madam President, in this country after we sign this treaty, and I have no doubt that we will because the Senate has exercised already that suspension of judgment, we will be bound not only by the letter of it but by the spirit of it. That has been the history of arms control from the very beginning, and the appropriators, if no other soul will, tell us that the spirit says that those missiles taken from the silos will be destroyed.

But that will not happen and will not be the case on the other side. I pointed out to the Senate, and I plead with the Senate to recognize that Russian military appropriations are going to be bigger in 1993 than they have been in 1992, this despite the claim so often made that what they need more than anything else is money, that their people are starving, that they are unhoused, and have no energy and everything else, but they are going to spend more money on military hardware in 1993 than in 1992. One of the things they are not going to have to spend their money on is replacing missiles that go from deployed to nondeployed status, because they still pose the same formidable threat and danger to the American people.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has about 15 minutes remaining.

Who yields time?

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

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

Mr. LUGAR. Madam President, I suggest that the time be charged equally to both sides.

Madam President, I will request a quorum call with the time to be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. If the Senator will withhold, it is apparent that the committee does not wish to debate this, and I understand this, because there really are no debatable points. So let me just make two other observations and then if they are willing I am perfectly willing to yield back the remainder of my time.

Mr. LUGAR. I ask the Senator to withhold his judgment for a moment. We do wish to debate but our debaters are in process of arriving.

Mr. WALLOP. Madam President, in which case I object to the time being charged equally. I used mine in a fair and equitable manner and they have only heard but two of theirs.

The PRESIDING OFFICER. Objection is heard.

Who seeks recognition?

Mr. LUGAR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll with the time charged to the opposing side.

The legislative clerk called the roll.

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

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

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. BIDEN. Will the Senator yield me a few minutes?

Mr. PELL. The opponents of the measure yield as much time as may be necessary to the Senator from Delaware.

The PRESIDING OFFICER. The Senator may proceed.

There are 23 minutes remaining.

Mr. BIDEN. Madam President, I say to the Chair, as well as to my colleagues, that I do not plan on taking anywhere near the 23 minutes. I know that my friends, the ranking member, and chairman of the committee, have responded to the Wallop amendment, but I would like to take maybe 3 to 5 minutes to make a few comments.

Madam President, the Senator from Wyoming, as I read this, is, in reality, refighting the SALT II Treaty. Critics of that treaty said that it was fatally flawed because it did not cover nondeployed missiles. But, lo and behold, when the Reagan and Bush administrations looked at the problem, they also determined that nondeployed missiles for fixed ICBM's and SLBM's have no military significance.

Madam President, the Foreign Relations Committee looked at this issue extensively in the INF Treaty and we heard testimony from the Joint Chiefs of Staff in the Intelligence Committee about the significance of nondeployed missiles in the context of START. And again the conclusion was reached that such missiles could not easily be made part of a militarily significant force.

Madam President, this Senator has concerns like the Senator from Wyoming about the fact that there may be nuclear warheads, not nuclear missiles, that are not covered by this treaty. It is not the missiles but the warheads that create a potential problem.

And the problem they create is not that they are going to put the United States directly in jeopardy or be militarily significant or relevant to our vulnerability to the nations with whom we have this treaty, but, for proliferation purposes, there is a concern expressed repeatedly by the committee and by many others that the inability to grab hold, if you will, of all the missiles, the warheads, as opposed to the missiles, would allow those nations to sell and/or trade those missiles, those warheads to third countries. And that is why we placed a condition on this treaty that in the future the President use all his best efforts to see to it that there is a way and ability to account for the warheads.

Now, what are we talking about here? The Intelligence Committee and the Foreign Relations Committee and the Joint Chiefs of Staff, as the Senator from Wyoming knows, have determined, after looking at this extensively, that the notion that, after having destroyed a silo, you would be able to take a nondeployed ICBM missile and put it in a posture that it was threatening to the United States in any militarily significant way is not a realistic possibility.

And so, based on the evidence that our committee received and based on the evidence, to the best of my knowledge, that the Intelligence Committee received in detail, this was not a military problem.

But I would respectfully suggest that the Senator is partially right for the wrong reason. The concern here should be, in my humble opinion, the warheads and not the missiles.

But in order to go back and reopen that negotiation, it seems to me to be implausible at this point and would be destructive to what otherwise is a very useful instrument in terms of U.S. military interests and U.S. security interests, because the concern relates not so much to the countries in question as much as it does to proliferation of those nuclear warheads to those Third World countries.

Again, we attempted to capture that concern in the action taken by the Foreign Relations Committee by a condition that would put the President in a position to attempt to initiate further negotiations with the individual signatories to this treaty in order to, in effect, capture those warheads, as well.

I am sure I have been redundant, because I have been off the floor dealing with another matter. It seems like I never stop dealing with the crime bill, with the crime issue. So I apologize to my colleagues if I have been redundant.

But I wanted to make those few points, at least so the Senate knows what my understanding is and what the understanding I have is of the intelligence community and the military with regard to how high a concern, probability for concern, that they place upon the concern raised by our friend from Wyoming.

Because if this were adopted, it is not a condition. It would require the President of the United States to, in effect, reopen the entire treaty, renegotiate the treaty. And that is the same as—I hate to use the phrase that is used so freely around here—that is what makes this a killer amendment; and a killer amendment, in my view, for no militarily significant reason.

So I thank my colleagues. I thank the chairman for yielding me the time, and I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the distinguished Senator from Delaware for a very important argument.

Let me follow on a point or two which he made which I think is relevant to the debate on the current Wallop amendment.

I would simply assert, Madam President, that requiring warhead elimination—and I make that distinction as opposed to missile elimination—but warhead elimination makes no sense without effective verification to determine compliance.

We have had a great deal of debate about that generally prior to coming to this amendment. There is no practical way to verify such elimination of warheads without unacceptable intrusiveness at our own facilities.

Madam President, in the debate thus far, we have assumed all along that our potential adversaries might have malevolent intent. But I think it is fair enough to say, from the standpoint of our own interests, that we have come to a conclusion as a Government, our negotiators, our Department of Defense, the President, that intrusiveness in terms of our own facilities is important.

Surely, the Senate would not ask the United States to subject sensitive weapons information to exposure or to require the destruction of our own warheads without insuring other parties were doing the same. And, surely, the Senate knows that warhead elimination makes no sense without numerical limits or constraints on production of new missiles and new nuclear warheads, constraints that we could not verify even with unacceptable intrusiveness.

Now, Madam President, this is a very large subject but it is relevant, I believe, to the debate we are having.

Mr. BIDEN. Will the Senator yield not on that point but a related point?

Mr. LUGAR. I am happy to yield.

Mr. BIDEN. The Senator has been clear in his view about the ability to monitor what is in our interest and not monitor but to count warheads, a point I left out that I think is relevant here.

It was not that our negotiators—I am going back to missiles now as opposed to warheads—it was not that our negotiators attempted to get a limitation on and/or destruction of nondeployed missiles. We did not want that. We, our military, did not want that.

And the reason they did not is because they agree with the Senator from Wyoming on SDI. They wanted to have boosters. They wanted to have these missiles available to them for testing purposes. And one of the underlying reasons for that was a program that I strongly oppose, that is the SDI program.

So one of the things I think our colleagues should put in the mix here is this is not as though we went out with an objective and our negotiators were, in effect, outnegotiated by our counterparts. It was the opposite.

We did not want these nondeployed missiles included either. And the reason we did not is, one, having them or not having them is of no military significance in the minds of our military intelligence community; and, two, we wanted to keep our nondeployed missiles for purposes unrelated to a nuclear program.

Mr. LUGAR. The Senator is clairvoyant, he read both my logic and my next two points.

Mr. BIDEN. I apologize to the Senator. I am sorry.

Mr. LUGAR. He also reinforced them.

Mr. BIDEN. I am sure the Senator would have made it more clear than I have.

Mr. LUGAR. It is a triangular discussion here, because really the Senator has been a very strong champion of strategic defense initiative. I have supported that, the Senator from Delaware has from time to time but not consistently and has occasionally opposed that idea. But let us be very clear, negotiations sometimes on the part of our own military people are in behalf of our own military interests. The distinguished Senator from Wyoming has been very sharply critical of our military people, suggesting that they really did not know our interests or where somehow misguided. But I would contend they though they did. I think it is demonstrable they had our interests very clearly in mind.

And I would just add, as the distinguished Senator from Delaware has, that I suggest that some Senators may misunderstand the benefits to be gained by keeping the nondeployed nonmobile missiles nondeployed, nonmobile missiles. The Senate should understand the START Treaty does contain limitations on nondeployed mobile missiles as opposed to the nonmobile missiles because of the inherent risk of the mobile missiles. In fact, mobile ICMB's would be eliminated, if necessary, to stay within these nondeployed limits.

But, since reload and breakout is less of a concern for nonmobile ICBM's and for SLBM's, these missiles need not be eliminated, in the judgment of our military. And by not requiring elimination we allow the use of these expensive assets, our assets, for other purposes such as, for example, space launch.

The provision included in START to which I gather the distinguished Senator from Wyoming objects was included over Soviet objection. I am making the point, not only was it in our interest but the Soviets saw it was in our interest and objected to it.

So the point the Senator from Wyoming wishes to eliminate was in fact something we wanted. And obtained. And is included in large measure because we want to use retired Minuteman missiles for testing in support of United States strategic defenses—in essence a portion of the SDI program.

It is particularly ironic, it seems to me, that champions of strategic defense criticize a hard-won U.S. victory preserved in large measure for preserving assets used in developing those defenses.

I make that argument, Madam President, in addition to the obvious one. And that is, if our hard-won gain was suddenly eliminated by action on the floor of the Senate today, we would, in fact, have to go back to the table. The amendment, whatever its other purposes may be, would cause the need for renegotiation of the treaty.

The Senator from Wyoming has indicated that he felt indeed that ought to be required and I understand his point of view. Obviously I disagree, as do our military people. As do our negotiators who deliberately maintained this item in the treaty for our benefit.

For these reasons, Madam President, I urge defeat of the Wallop amendment.

The PRESIDING OFFICER. The Senator from Wyoming, the proponent of the amendment.

Mr. WALLOP. Madam President, nothing about this debate so far has been anything short of "Alice in Wonderland," from the seven requests for parliamentary rulings that could not be, to the inserts in the RECORD that were not allowed, to the opponents of the treaty that were not permitted to testify. And now we have this mystical new set of requirements and arguments that are raised against my amendment.

Madam President, if the able leaders of the Foreign Relations Committee would read the English language, it said that they would be eliminated except for a finite, minimal and verifiable number equal for each side to be agreed on.

There is nothing in that provision which would not provide for the SDI launches, were that excuse to have been able to be found water impervious. But I would say, Madam President, the information the Senator from Wyoming has was that this was a concession that we made outside of a negotiating position that we had long held that was exactly as the Senator from Wyoming has described it. The thing that is unverifiable is that which the Senator from Delaware speaks of; is the ban on warheads. Let the Senator from Wyoming inform the Senate that every time we reduce one level of an intercontinental ballistic missile's means of inflicting lethality, one level of its lethality—every time one level is reduced, the safety is enhanced.

I would say under the terms of this treaty, no level of lethality is reduced, notwithstanding the claim of the Senator from Delaware. One of the things it is important to realize is that the Soviets, as a routine, launch these missiles from what are called soft pads. In other words just a concrete place out in Vladivostok or Novaya Zemlya, or some of the other places where they do it and we now can talk about it.

Madam President, among the other things that could take place if anybody were willing to listen to the possibilities, is that you could launch to destroy, if that was one of the concerns of the American military. I know enough about SDI to know when I am being fed a bowl of sugar and this is clearly, then, one of those times. This is not an argument that holds any—any—absolutely anything that is true.

If it were so, as the able Senator from Delaware has just declared, that we do not need this thing then why was it important to put a ban on the nondeployed mobile missiles; a ceiling there? And guess what the ceiling was? I see only the staff remains on the floor. But the ceiling was 250.

Guess how many they have? Sixty. So this treaty authorizes the construction of 190 missiles before any of them can be banned in a nondeployed status. Very good negotiating—tough old Yankee traders that were there.

What this was, Madam President, is nothing short of a blatant concession. And my amendment does not prevent us from negotiating a verifiable number for the Soviets to use for space launches and for ourselves to use for space launches. But it does go to the heart of the treaty matter that is claimed by its proponents, that we are safer with it than without it. And we cannot be said by any logic in the world to be safer with missiles that can still be fired against us and not counted in and amongst the reduction.

Madam President, if the leaders are ready I am prepared to yield back time as soon as they are prepared to yield back time.

The PRESIDING OFFICER. The Senator from Wyoming has 8 minutes and a few seconds left.

Mr. WALLOP. I am prepared to yield it back just so long as the proponents are prepared to yield back theirs.

Mr. PELL. I must object for the moment. I would object for the moment—let the quorum call continue.

The PRESIDING OFFICER. Whose time shall the quorum call be?

Mr. PELL. On mine. On ours.

The PRESIDING OFFICER. The Chair wishes to advise the Senator from Rhode Island he has approximately 10 minutes and 12 seconds.

Mr. PELL. I thank the Chair.

The PRESIDING OFFICER. The clerk will now call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. PELL. Madam President, while we are waiting to hear the leadership's plans for the evening, I would like to make a statement, quoting Gen. Colin Powell:

I and my colleagues in the Joint Chiefs of Staff believe that the START treaty achieves our original 1982 strategic arms reduction goals, which were to enhance deterrence and achieve stability through significant reductions in the most destabilizing nuclear systems, ballistic missiles, and especially ICBM's which have multiple warheads; second, to maintain an overall level of strategic nuclear capability that would always be seen as sufficient to deter conflict; third, underwrite our national security; and, fourth, meet our commitments to allies and friends.

We laid these goals out in 1982. The goals remain just as valid in 1992. The Chiefs and I have the capabilities of our post-START nuclear forces to meet these goals and to determine the military sufficiency of our nuclear forces.

To make this assessment, we analyze several measures of effectiveness, such as the level of damage expected, the numbers and types of survivable warheads, and our reserve force posture. When we compared the level of damage against the smaller target base in Russia that results from the START and other reductions that we are undergoing, we determined that our modern, more capable weapon systems will allow us to maintain approximately the same levels of damage in target coverage that we can achieve today.

When we examine the mixed weapons in the case when all of our forces are generated to full alert, we determine that even though the aggregate number of weapons declines, the percentage of survivable warheads increases because of the higher ratio of submarine and aircraft warheads compared to ICBM warheads.

Of the land-based and sea-based missiles on a day-to-day alert, the percentage of survivable warheads will also increase in the post-START force. The percentage of reserve weapons remains approximately the same. And our military judgment of all these measures is that national security is enhanced for both the United States and the republics of the former Soviet Union as a result of the START treaty.

Each of the other Chiefs joined the Chairman in his support for the treaty. Gen. Merrill McPeak the Air Force Chief of Staff said:

The original objectives of the START negotiations were to increase strategic stability, to achieve militarily significant reductions in strategic weapons, and to institute an effective verification regime. Not only have these objectives been achieved, they have been surpassed by the combination of the START treaty and subsequent unilateral actions and bilateral agreements. In my opinion, this treaty is in the best interest of the United States.

Admiral Kelso, the Chief of Naval Operations expressed similar views, saying:

I support, without reservation, the START treaty. I am satisfied that it is militarily sound and its ratification will result in a predictable and thus more stable environment with respect to our relations with Russia and the other nuclear-armed republics.

Gen. Gordon R. Sullivan, the Army Chief of Staff, said:

My endorsement is offered without reservation. The ratification of the Strategic Arms Reduction Treaty is in the best interest of the United States, and in my professional judgment, for the following reasons. The provisions of the treaty allow us to achieve our fundamental objectives of deterrence and stability through balanced reductions, and provides the legal framework to assure timely reductions, and the eventual elimination of all the nuclear weapons in Belarus, Ukraine, and Kazakhstan.

Gen. John R. Dailey, Assistant Commandant of the Marine Corps stated unequivocally:

The Treaty is in the national security interests of the United States. It retains the objective of deterrence against nuclear aggression, meets our commitments to our allies, and supports the U.S. arms control objectives of increased security and stability.

The Marine Corps has supported the START committee from its inception, and along with other services has monitored its progress to ensure military sufficiency. In our judgment, U.S. forces under the Treaty will be militarily sufficient to meet our national security requirements.

Mr. WALLOP. Madam President, let me just say once again to the Senate that any number of missiles could be retained under this nondeployed status. But Senators should be aware that in America, we have finished constructing our last missile. We do not have any hot missile production facilities now. Nobody is making new boosters for the Minuteman or for the MX. That is not the same case in the Soviet Union which has hot missile lines in all phases, 18's, 24's, 25's, and SSN-18. All of these are going on. We have only a missile production line for the Trident. So there is a big difference when we are trying to retain things for SDI.

But I will say the more important point, Madam President, is that this amendment does not call for any specific number, only that we begin to deal with the problem of nondeployed missiles so that they cannot be arrayed in the future against Americans.

Madam President, I yield back the remainder of my time and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. WELLSTONE). The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

The result was announced—yeas 11, nays 88, as follows:

[Rollcall Vote No. 248 Ex.]

YEAS—11

Brown	Hollings	Smith
Craig	McCain	Symms
Garn	Pressler	Wallop
Helms	Seymour	

NAYS—88

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

NOT VOTING—1

Gore

So the amendment (No. 3301) was rejected.

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

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

The motion to lay on the table was agreed to.

BUSH'S FAILED IRAQ POLICY

Mr. WIRTH. Mr. President, George Bush would have us believe that he alone is qualified to conduct the foreign policy of the United States, that he is uniquely qualified to act as Commander in Chief given the depth and scope of his experience in international affairs. That is the rhetoric we hear from the Bush campaign. George Bush the foreign policy whiz.

Today AL GORE laid out the reality of the Bush administration's record on one of the core foreign policy issues George Bush has faced in office: Iraq. The record of Bush's handling of Iraq up to and after the gulf war is one of profound misjudgment and probable duplicity. The rhetoric and the reality

of Bush's Iraq policy, as on so many other issues, are like parallel lines: they never meet.

Not only did the Reagan and Bush administrations knowingly and purposefully coddle Saddam Hussein throughout the 1980's and pamper him right up to the eve of the invasion of Kuwait, they did so in the face of overwhelming evidence from the CIA, State Department, Commerce Department, and other agencies that Saddam was continuing his brutal and reckless policies, including:

Support for international terrorism, including the use of Iraq as a safe haven for over 1,400 terrorists;

Genocidal slaughter of hundreds of thousands of his own Kurdish citizens;

Illegal use of American agricultural credits to buy arms—credits which Saddam predictably defaulted on and which have left the American taxpayer holding the bag for nearly $2 billion;

And a concerted program by Saddam to acquire nuclear, biological and chemical weapons and the missiles to deliver them.

By coddling the Iraqi tyrant, the Bush administration evidently hoped to change Saddam's ways. George Bush was deeply involved in this effort to, as Ross Perot put it, "burp and diaper" Saddam. Twice, Vice President Bush personally lobbied the Export-Import Bank to extend credits to Iraq. Vice President Bush sided with Iraq's Ambassador in trying to get the Pentagon to ease its opposition to high-tech exports to Iraq. Clear warnings about Iraq's pursuit of nuclear weapons did not stop President Bush from signing a directive mandating the pursuit of improved economic and political ties—just 10 months before the invasion of Kuwait.

This myopic policy of appeasement continued right up to the eve of the invasion. The Bush White House vetoed Iraq sanctions legislation and continued to oppose sanctions even as Iraqi tanks massed on the Kuwait border. In early 1990, the Bush administration apologized to Saddam for a Voice of America broadcast critical of Iraq's human rights records. Bush followed up by sending Senators to Baghdad to make clear to Saddam that he would oppose sanctions and to advise the Iraqi dictator that the VOA reporter who had so offended Saddam had indeed been fired. Ambassador April Glaspie's infamous meeting with Saddam a week before the invasion was, as Senator GORE points out in his speech, a reflection of Bush's personal views on Iraqi policy. Be our friend.

George Bush defends this sad record by claiming that he was trying to bring Iraq back into the family of nations. But there was no evidence to support this hope, and overwhelming evidence to the contrary. Saddam was and remains a dangerous despot capable of the most brutal acts. Rather than deterring and containing Iraqi aggression, President Bush, the foreign policy expert, sent unmistakable signals of weakness and of acquiescence.

As Saddam was transformed overnight from friend into Adolf Hitler, George Bush sought to paint himself as Winston Churchill standing up to brutal aggression. Unfortunately, the record demonstrates clearly that the apt historical comparison is not Churchill at all, but the failed appeasement policy of his Foreign Secretary. As Senator GORE noted this morning "George Bush's poor judgment, moral blindness, and bungling policies led directly to a war that should never have taken place."

None of this is to take away from George Bush's handling of the gulf war itself nor from the brave men and women who served their Nation well and honorably in that effort. But if George Bush wants due recognition for his skill in prosecuting the war, he must also take responsibility for the policies that made that war inevitable.

George Bush claims that he was out of the loop on the Iran-Contra arms-for-hostages trade. We now know better from many of the key participants in that sad affair. George Bush was deeply involved and supportive of the cynical diplomatic default. But he continues to claim that, like Reagan, he knew nothing.

George Bush is also now seeking to cover up his central role in the failed Iraq policy. The administration knew that Saddam was out to acquire nuclear weapons, and that Iraq was shopping right here in America for key components. Yet last June, Bush repeated that the United States had not contributed to Saddam's pursuit of weapons of mass destruction. The record is just the opposite.

The record also shows that the Bush administration was aware that agricultural credits were being used illegally to finance Saddam's war machine. The record also shows that the Commerce Department altered documents provided to Congress on high technological exports to Iraq.

We do not yet have the full truth on the role the Atlanta branch of the Banca Nazionale del Lavoro [BNL] played in financing Saddam's regime. If Bush has his way, we may never know the full story.

We do know that illegal loans to Iraq were made by BNL. We do know that the CIA was aware of BNL's activities. We do know that the Bush Justice Department declined to appoint a special prosecutor and that the Federal judge, Marvin Schoob, presiding over the case criticized Attorney General Barr's decision. We do know that there have been credible reports of White House meddling in the investigation and prosecution of the case against BNL.

As in Watergate, the more we know, the worse it gets.

William Safire in a column entitled "Crimes of Iraqgate" summed it up well:

> Americans now know that the war in the Persian Gulf was brought about by a colossal foreign policy blunder . . . What is not widely understood is how that benighted policy led to the Bush administration's fraudulent use of public funds, its sustained deception of Congress and its obstruction of justice . . . Policy blunders are not crimes. But preventing the purposes of appropriated funds is a crime; lying to Congress compounds that crime; and obstructing justice to cover up the original crimes is a criminal conspiracy.

Mr. President, I ask unanimous consent that the text of Senator GORE's remarks before the Center for National Policy, as well as supporting documentation, be included in the RECORD at this point.

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

REMARKS BY SENATOR ALBERT GORE, CENTER FOR NATIONAL POLICY, WASHINGTON, DC, SEPTEMBER 29, 1992

One of the most important questions in this campaign involves the judgment of the candidates on foreign policy. The American people know the world is full of unexpected surprises and dangers—and as a result they want to know whether or not a president can handle these uncertainties, recognize unanticipated dangers, and realize when national policy must be changed to reflect new realities. The American people also want to know whether or not they can count on their president to tell them the truth.

President Bush, in his handling of our policy toward Iraq, has failed all these tests, and failed them badly. His poor judgment, moral blindness, and bungling policies led directly to a war that should never have taken place. And because of his naivete and lack of candor, U.S. taxpayers are now stuck with paying the bill for $1.9 billion President Bush gave to Saddam Hussein even though top administration officials were repeatedly told Saddam was using our dollars to buy weapons technology. Bush, of course, believes that the war with Iraq was his finest hour as the organizer and leader of a vast coalition of armed forces united for the purpose of frustrating the designs of an evil dictator.

But the war with Iraq had deep roots, and if George Bush's prosecution of the war is part of his record, so too is his involvement in the diplomacy which led to it, both in the Reagan/Bush era, and far more so, during his presidency when he accelerated foreign aid and the sale of weapons technologies to Iraq—right up until the invasion of Kuwait—in spite of repeated warnings that anyone with common sense would have had no difficulty understanding. The path leading us to that war, and the path which the President has followed after, are deeply shadowed in profound error, in duplicity, and in amoral disregard for our most basic values as a nation. There is also substantial evidence that his administration intentionally falsified export records, and reports to Congress, and in the process apparently violated a number of laws intended to prevent such horrendous mistakes.

Nineteen months ago, President Bush called Saddam Hussein a new Hitler who had to be stopped at all costs. Yet today, that same tyrant remains firmly in power, resisting by every means the will of the international community. No wonder so many

Americans ask themselves whether or not victory over Saddam will ultimately prove an illusion.

The conduct of the war will remain a proud memory for all Americans. But the full history must also include events before and after the war. That detailed record requires a little more time and effort to understand. And if we really want to judge President Bush's stewardship of policy, then we had better pay attention to that detailed record, which provides a deeply disturbing look at a blatant disregard for brutal terrorism, a dangerous blindness to the murderous ambitions of a despot, and what certainly appears to be an ongoing effort to hide the facts from the American people whose tax dollars paid for this policy and whose sons and daughters risked and lost their lives in its pursuit.

George Bush wants the American people to see him as the hero who put out a raging fire. But new evidence now shows that he is the one who set the fire. He not only struck the match, he poured gasoline on the flames. So give him credit for calling in the fire department, but understand who started the blaze.

Let me begin by providing a basic historical frame of reference: In September of 1980, Iraq invaded Iran. Iraq was the odds-on favorite to win the war in short order. However, by May 1982, Iraq was clearly in trouble. It had lost a major battle with Iran. Our policy-makers began to imagine Iran under a radical Islamic government emerging as the dominant regional power: a nightmare. I believe that is why, in February 1982, President Reagan took Iraq off the list of states that sponsored terrorism.[1] He did this not because Iraq had gone straight and given up terrorism, but because he wanted to help Iraq while there was time.[2] By taking Iraq's name off the list, President Reagan opened the way for Iraq to receive US credits through subsidized agricultural loan guarantees and Export-Import Bank credits. Reagan's decision also removed certain kinds of export controls intended to block the transfer of US technology to countries on the official terrorism list.

In other words, for strategic reasons, the Reagan/Bush Administration would overlook virtually any unpleasant reality in Iraq, and apparently subvert US laws in order to prop up Saddam Hussein's brutal regime.

George Bush claims he was an outsider in another momentous Reagan decision—to sell arms to Iran in exchange for American hostages. Of course by now, most people find that very hard to believe and the documentary record is closing in on him. Recently, we learned that former Secretary of State George Shultz and former Secretary of Defense Caspar Weinberger were outraged when they heard then Vice President Bush was disclaiming any knowledge of the Iran arms deal and the fact that the two senior cabinet officers had vigorously opposed it. Notes taken at the time of their telephone conversation about this event have Mr. Weinberger saying that Bush's comments were "terrible" and that, far from being ignorant of developments, Bush had been "on the other side" of the struggle over policy.[3] Just last week, more evidence surfaced showing that Bush is recorded as having attended numerous meetings across a span of three years when White House senior officials debated the plan to sell arms to Iran and then were briefed on the status of the program.[4] He was also present at the meetings in which the trade of arms for American hostages was explicitly discussed. And now two of the briefers have directly challenged the veracity of President Bush's claim that he didn't know arms were being swapped for hostages. Far from being "out of the loop", Bush seems to have been one of the most vigorous and vociferous advocates of the illegal side of the argument. Indeed, his arguments to the contrary are simply no longer credible. His national security adviser was clearly uncomfortable even going so far as to say that Bush's version was "possibly" true.

Now new evidence about his policy toward Iraq directly contradicts President Bush's repeated statements to the American people that he did nothing that helped Saddam's effort to acquire weapons of mass destruction during the months and years preceding Saddam's invasion of Kuwait. To begin with, George Bush cannot even try to claim ignorance where policy toward Iraq was concerned. Not only was he directly in the loop, he was a principal architect of the policy from its earliest days. For example, in April of 1984, Bush personally lobbied the Ex-Im Bank's chairman—a friend from college days—to disregard the views of his own economists, and extend credits to Iraq.[5] Doubts about Iraq's credit-worthiness were very well-founded. But the overriding issue was whether Iraq could continue to hold on in the war with Iran. That's all that seemed to matter.

In pursuit of that objective, the Reagan/Bush Administration would overlook the fact that it was an Iraq-based group that masterminded the assassination attempt against Israel's ambassador to the UK, which occurred in June 1982.[6] This event triggered Israel's invasion of Lebanon—not exactly a minor consequence for US policy. The Reagan/Bush Administration was also prepared to overlook the fact that the terrorist who masterminded the attack on the Achille Lauro and the savage murder of American Leon Klinghoffer fled with Iraqi assistance.[7] Nor did it matter that the team of terrorists who set out to blow up the Rome airport came from Baghdad with suitcase bombs.[8]

Iraq not only stayed off the terrorist list no matter what, but in November 1984, full diplomatic relations were established with the country. The US. government continued to exert every effort to channel assistance to Saddam Hussein—even with evidence that he was not only promoting terrorism, but was also pursuing a nuclear weapons program. As early as May of 1985, Assistant Secretary of Defense Richard Perle warned about the suspected diversion of US exports of dual-use technology to the Iraqi nuclear weapons program.[9] But Bush ensured that the flow of technology continued.

In March 1987, Bush again took a prominent role: when Iraq's ambassador complained that our Defense Department was taking too long and being too cautious about export licenses for high tech items, Bush apparently agreed with him that the Defense Department was being capricious and had to get with the program.[10]

There might have been a moment's pause for reflection when Iraqi aircraft intentionally attacked the USS Stark in May 1987, killing 37 sailors—but the Administration smoothed it over very fast. This was the spring when the Ex-Im Bank staff resisted another $200 million loan for Iraq, but again the loan was granted after Bush again personally intervened to stress its political importance. The loan went through in May, just two days before the attack on the Stark.[11]

Now, let me make a point about foreign policy and the real world. The actual conduct of foreign policy often bears as much resemblance to academic theory as the conduct of domestic politics bears to a civics course. If we have to deal with someone bad in order to handle someone worse, then for heaven's sake we should at least be ready to re-evaluate that relationship the moment it has outlived its value to the United States.

In other words, whatever the arguments for temporarily supporting Saddam Hussein as a barrier separating Saudi Arabia's oil from Iran's militant fundamentalists, Bush deserves heavy blame for intentionally concealing from the American people the clear nature of Saddam Hussein and his regime, for convincing himself that friendly relations with such a monster were possible, and for persisting in this effort far, far beyond the point of folly.

Throughout this period, Saddam's atrocities continued. In March 1988, Saddam Hussein used poison gas on the Kurdish town of Halabja, brutally murdering some five thousand innocent men, women and children. None of us can ever forget the pictures of their bodies—of parents trying to shield their infants even in death—that were in our news media.

The Iran-Iraq War ended in August of 1988. Iraq had not prevailed, but neither had it been defeated. As a result, you would think that the Administration would give our policies a second look to see if they should be altered. But the Reagan/Bush Administration never hesitated even when the news became much, much worse. Within days of the end of the Iran-Iraq War, Saddam Hussein—seeing that he had gotten away with using poison gas against the Kurds previously—launched additional major gas attacks on them. The war was over, and he was determined to settle accounts. Saddam's attacks created, in addition to the wave of deaths, a flight of about a half million Kurdish refugees.

The effect of these events on the public and on Congress was electrifying. The outrage and disgust sparked action and ignited an intensification of efforts to pull the plug on US assistance to Saddam Hussein. I myself went to the Senate floor twice demanding tough action.[12] But these efforts were resisted to the bitter end by the Reagan/Bush and Bush/Quayle Administrations. For example, they pulled out all the stops to defeat the Prevention of Genocide Act, after the US Senate had passed it unanimously in September of 1988.

Meanwhile, the US Customs Service was reporting that in 1988, it had marked a notable increase in the activity of Iraq's network of procuring agents and front corporations. A concerted effort was underway to obtain missile technology, chemical weapons technology, and biological weapons technology.[13]

In January 1989, George Bush was sworn in as President. Based on plentiful evidence, he had reason to know that his ongoing policy regarding Iraq was already malfunctioning.

Just last week, we learned of a memorandum written in March, 1989, to Secretary of State Baker, as he prepared to meet with a senior Iraqi official in which the author noted that Iraq continued to cooperate with terrorists, that it was "meddling" in Lebanon, and that it was "working hard at chemical and biological weapons and new missiles."[14] What is especially interesting about this memo is that it notes that in the months preceding this meeting Iraqi oil exports to the US had increased dramatically and on favorable terms. That point raised the question of a quid pro quo sought by the Iraqi officials—cheap oil in exchange for "freer export licensing procedures for high

Footnotes at end of article.

tech." The memo's drafter notes—somewhat critically and impatiently—that export applications were being held up by the Commerce Department, and by the Defense Department, out of concern that the proposed exports could enhance Iraq's military capabilities.

These concerns were well-founded. In April 1989, a nuclear proliferation expert from the Department of Energy reported intelligence indicators that Iraq had a crash program underway to build on atomic bomb.[15] In June, the Defense Intelligence Agency reported that Iraq was running a major European network to procure military goods that were not supposed to be sold.[16] In August, the FBI raided the Atlanta Branch of the Italian Banca Nazionale del Lavoro (BNL) and seized evidence of over $4 billion in illegal loans to Iraq, as well as use of about $2 billion of those funds to buy nuclear and other military technologies. On September 22nd, Assistant Secretary of State John Kelly wrote a memo acknowledging that money coming to Iraq through the Atlanta branch of the BNL did "appear to have been used" to finance acquisition of sensitive military technology.[17] Also in September, the USDA reported kickbacks and possible diversions of US-supplied agricultural funds for military purposes.[18]

Most significant of all, in the same month, the CIA reported to Secretary of State James Baker and other top Bush administration officials that Iraq was clandestinely procuring nuclear weapons technology through a global network of front companies.[19] Now, in the midst of this flood of highly alarming information, on October 2, 1989, President Bush signed a document known as NSD-26, which established policy toward Iraq under his Administration.[20] This document is the benchmark for judging George Bush's record for the direction of American policy toward Iraq in the period that would ultimately lead to war. We have only a partial idea of what is in that document, since the version that was finally released to Congress has been heavily censored. But the core statement of purpose and the fundamental assumptions behind it are clear. And so is the incredibly poor judgment of George Bush.

NSD-26 mandated the pursuit of improved economic and political ties with Iraq on the assumption that Iraqi behavior could be modified by means of new favors to be granted. Perhaps so, if this were a state not under the complete control of a single man whose ruthlessness was already totally apparent. The text of NSD-26 blindly ignores the evidence already at the Administration's disposal of Iraqi behavior in the past regarding human rights, terrorism, the use of chemical weapons, and the pursuit of advanced weapons of mass destruction. Instead it makes a heroic assumption of good behavior in the future, on the basis of an interesting theory—namely, that Iraq would suddenly and completely change its ways out of a fear of economic and political sanctions.

It leaps from the page, that George Bush, both as Vice President and President, had done his utmost to make sure that no such sanctions would ever apply to Saddam Hussein. Consequently, the question is unavoidable: why should Saddam Hussein be concerned about a threat of action in the future from the same man who had resolutely blocked any such action in the past? To the contrary, Saddam had every reason to assume that Bush would look the other way—no matter what he did.

In my view, the Bush Administration was acting in a manner directly opposite to what you would expect with all the evidence it had at the time. Saddam Hussein's nature and intentions were perfectly visible.

In October of 1989, representatives of the Departments of State and Agriculture met to discuss Iraq's diversion of US agricultural credits into the acquisition of US technology for its nuclear weapons program.[21] Later that same month, however, on October 26th, Assistant Secretary of State Kelly sent Secretary Baker a memo jointly written with the State Department's legal counsel, Abe Sofaer, urging that Baker push an additional $1 billion in agricultural loan guarantees for Iraq, notwithstanding the mushrooming scandal surrounding the diversion of BNL loans by Iraq for nuclear purposes.[22]

I will leave to others to debate whether Sofaer's efforts—or those of White House Counsel Boyden Gray's staff—to sound out the intentions of the Atlanta prosecutor constituted a crude form of intervention.[23] My point is that before and after consecrating a policy that tied us hip and thigh to Saddam Hussein, George Bush had all the information he needed to know that he was in deep, deep . . . water. But he persisted, although in November the CIA again reported that Baghdad was shopping everywhere for chemical, biological, and nuclear technologies and for ballistic missile technology.[24] And even though the CIA again reported a link between BNL funding and the Iraq nuclear and missile program,[25] in November the Administration agreed to go ahead with another billion dollars in US taxpayer subsidized loan guarantees to Iraq.[26]

In January of 1990, President Bush issued a determination that exempted Iraq from section 512 of the Foreign Operations Appropriations Act of November 1989 prohibiting further loans to Iraq. On grounds of "national security," the President declared that the Act's prohibition would not apply.[27] And yet, this was the season when the RAND Corporation reported that an estimated 1400 terrorists were operating out of Iraq.[28]

In February 1990, Saddam Hussein called for the removal of US military forces from the Persian Gulf. And yet, the same month, the Administration actually apologized to Saddam for the content of a Voice of America broadcast criticizing Iraq's human rights record.[29] Coddling tyrants is a hallmark of the Bush foreign policy.

March, 1990, brought no improvement, when US and British agents arrested several Iraqis in the act of trying to smuggle nuclear triggering devices into Iraq. In April, Saddam Hussein issued his infamous threat to burn up half of Israel with chemical weapons. Still, Bush toadied up to Saddam.

Also in April, the Federal Reserve Bank of New York noted that BNL money was diverted to purchase nuclear triggers in the United States, which had later been seized by British customs.[30] That same month, British Customs also seized pipe sections heading for Iraq, which were determined to have been parts of a super-gun. Similar shipments were seized in Greece, Turkey, Italy, West Germany and Switzerland.

Yet, on April 12th, at the personal request of Bush, Senators Bob Dole and Alan Simpson—the number one and number two Republican leaders in the Senate—travelled to Baghdad and told Saddam Hussein that President Bush was still ready to veto any sanctions bill that Congress might pass.[31] They added—again at Bush's personal request—the comforting news that the author of the offending voice of America criticism had been fired that same day in an effort to please Saddam.

In April and May, Commerce Under Secretary Dennis Kloske attended two meetings at the White House where he recommended that the U.S. tighten restrictions on exports of high technology, but he was overruled,[32] and the flow of technology from the US continued. As a side-note, when Kloske testified about this before the House Foreign Affairs Subcommittee on International Economic Policy and Trade about a year later, he was fired within forty-eight hours.

May arrives, and a terrorist attack on the public beaches of Tel Aviv was launched and thwarted. It was planned by a Palestinian group operating openly in Baghdad.[33] On May 21, the USDA sent up another warning about diversions of funds from US-guaranteed loans. But on June 15th, 1990, Assistant Secretary of State Kelly told the Senate Foreign Relations Committee that the Administration still opposed any Congressional sanctions against Iraq. And in July, as Iraqi tanks and soldiers massed on the Kuwaiti border, the Senate tried to pass another sanctions bill against Iraq * * * and the Administration opposed it. Not only that, but on the eve of the invasion, the Bush/Quayle Administration kept selling Saddam dual-use technology such as sophisticated computers, flight simulators, and equipment to manufacture gun barrels.[34]

At that very moment, however, high level officials in the Administration, including Secretary of State James Baker, were finally forced to confront what they had known from the outset of Bush's administration: that Iraq had grossly abused the benefits extended to it by Bush. In July, a memo jointly drafted by four senior officers of the Department of State was sent to Secretary Baker and approved by him. According to this memorandum—the existence of which just came to light a few days ago—the Administration acknowledged that "Iraq is actively engaged in developing chemical and biological weapons and ballistic missile systems, and may be seeking to develop nuclear weapons as well. Iraq has been attempting to obtain items to support these proliferation activities from US exporters, in some cases successfully." The memorandum concludes that the time had come for the Administration to "move now on Iraq because of its very active proliferation-related procurement efforts" and because "there is a danger that US exporters could become implicated in these efforts."[35]

Bear in mind that Saddam Hussein was then only one week away from an act of open aggression that would bring us to war. It had taken this long for an awareness of what was going on for years to be acknowledged within the Administration.

Much has been said about the record of our Ambassador to Iraq April Glaspie's famous interview of July 25th with Saddam Hussein. But the Ambassador's servile message was a clear expression of Bush's personal views.[36] Her message was totally in line with US policy as laid down by President Bush in October 1989, and clung to until August 2, 1990, when Iraq invaded, conquered, and annexed Kuwait.

Within a month, our sons and daughters were to be sent to risk their lives facing a threat that had been built up through US technology and US tax dollars by our own President, who now summoned them to battle. In answer to this charge, President Bush has explicitly denied that his policies enhanced Saddam Hussein's nuclear, biological and chemical capabilities.[37] He denied this, not only in an official report to Congress in the fall of 1991, but as recently as June 13th

and July 1st of this year, when Bush said: "We did not enhance Saddam Hussein's nuclear, biological, or chemical weapons capability"[38] But as I have just mentioned, his own Secretary of State knew differently at least as of July 1990, and the actual record of our exports shows the facts rather differently than the President wants to remember them:

Almost 30% of our non-agricultural exports to Iraq between 1985 and 1990 went to the Iraqi military-industrial complex.[39]

Of these exports, there were 162 items that were licensed for sale despite their potential nuclear applications.[40]

The Administration permitted the sale of powerful computers comparable to those used in our own missile test ranges, despite objections from the Department of Defense.[41]

It allowed shipment of high-tech equipment needed for Iraq's Condor II missile, which was to have been able to deliver a nuclear warhead at a range of more than 600 miles.[42]

It allowed for the export of materials needed for the infamous "supergun" project, intended to have the ability to launch nuclear weapons line artillery shalls over hundreds of miles.[43]

Machine tools, lasers and other equipment for the manufacture of rocket casings used in SCUD missiles were sold. When UN inspectors got into Iraq, they found at Saddam Hussein's main nuclear weapons complex a carbide-tipped machine toll factory which had been built with technology and equipment licensed for export by the Bush Administration.[44]

The Administration licensed technology and equipment for fabricating shapes out of glass fiber over the objections of the Department of Defense, which noted that the purchaser was part of the Iraqi military-industrial complex, and that this kind of equipment was needed for a nuclear weapons program. The Administration preferred to blindly accept the importer's ludicrous claim that the equipment would be used to make shower stalls.[45]

Equipment for a "detergent" factory was licensed, yet this same factory was used to make chemical weapons.[46]

17 licenses for the export of bacterial and fungus cultures to Iraq were granted, even though the CIA specifically linked the Iraqi government agencies involved to "biological warfare support and numerous and other military activities."[47]

The UN Special Commission, once it finally got inside Iraq, is reported to have found equipment from eleven American companies in Iraqi missile and chemical weapons plants.[48]

It is astounding to look at the list of Iraqi customers approved by the Administration:

The Ministry of Industry and Military Industrialization (known as MIMI), which was headed by a brigadier general who was Saddam Hussein's son-in-law, and which the CIA identified as "controlling Iraq's nuclear network."[49]

The Saddam State Establishment and Salah Al Din, called in an intelligence report "typical of Iraq's arms production facilities."[50]

Sa'ad 16 identified back in 1986 as a key missile production site, where as much as 40% of the equipment was reported to be US-made.[51]

The Administration even sold Saddam Hussein helicopters for his personal use, equipped with special infra-red guidance and defensive systems.[52]

Incredibly, the Bush Administration knew all along that the chief purchasing agent for much of this material was the head of an Iraqi weapons complex. "The tentacle of the octopus," as one law enforcement official put it, was a US company called Matrix-Churchill. It was a key player in Saddam Hussein's efforts to acquire nuclear and other weapons technologies. The chairman of this so-called "American" corporation was one Safa al-Habobi, who was simultaneously the Director General of the Iraqi Nassr State Enterprise for Mechanical Industries, well-known by our intelligence agencies as a major Iraqi military-industrial complex where missiles and nuclear weapons equipment were manufactured.[53]

There was report after report linking Habobi's firm, Matrix-Churchill, to Iraq's global network of front companies and even back to the Iraqi Ministry of Industry and Military Industrialization (MIMI) and Saddam's son-in-law Hussein Kamal. But the Bush Administration kept issuing licenses.[54]

And as for how Iraq paid for all this when it was already far over its head in debt as the result of the war with Iran and Saddam Hussein's economic policies, a large part of the answer is: on credit in the form of loans guaranteed by the Bush/Quayle Administration. In the fall of 1989, Bush pushed hard to make sure that $1 billion in new loan guarantees were provided to Suddam Hussein.[55] It didn't matter that federal agencies were reporting severe abuses of prior loan guarantees from the United States. In the end, the US taxpayer has been left holding the bag for almost $2 billion of loans to Iraq which will never be repaid.[56] After bailing out the savings and loans, American taxpayers are now being forced by Bush's poor decisions to bail out Saddam.

When it comes time to confront the consequences of these years of serious mistakes, when it came time to confront Saddam Hussein's invasion of Kuwait with an international coalition united in its resolve and purpose, George Bush, all the way up until the moment the combat ended, displayed fortitude and skill. But the chestnuts he pulled from that fire were his own. His policies nurtured Saddam Hussein. He was deaf to information that to any other ear was a fire-bell in the night, ringing clearly that our policies were disastrously wrong.

And incredibly, immediately following the war, President Bush reverted to form. At President Bush's encouragement, an armed resistance to Saddam Hussein sprang up in Iraq. But at the critical moment, it was George Bush's decision to betray that resistance by tolerating Saddam Hussein's use of attack helicopters to put down the rebellions. That was a clear violation of the terms of the ceasefire, and it was a violation we had more than enough power to suppress.

Had we insisted on the terms of the ceasefire, there would have been a much better chance that today we would not be facing Saddam Hussein in power.

Should a man who mistook Saddam Hussein for a docile ally—and who then pursued that error to the point where the lives of hundreds of thousands of Americans had to be put on the line—have a second term as President of the United States? Has George Bush told the truth, the whole truth about a policy that left our nation facing a brutal, murderous dictator? If he will take credit for the victor, will he also take responsibility for the policy that made war inevitable? The answer to these questions is no.

George Bush sent loan guarantees to an oil-rich dictator. George Bush sold dangerous technology to a criminal who was intent on developing and using lethal weapons. George Bush sent secret intelligence reports to a man who, by any stretch of the imagination, could not be trusted. George Bush refused to face the truth or hear the urgent warnings coming from his own Administration. And then, George Bush put American lives on the line in a war that never would have happened except for his mistakes.

In so many ways, George Bush does not fit the requirements of the New World Order his own speechwriters once summoned up. We require a fresh approach from a new leader of vigor and high intelligence, of courage and vision, who believes to the core that the enemies of freedom cannot be anything but the enemies of our country. I think that the people of the United States have and will take the opportunity to select such a leader. Bill Clinton is that man.

FOOTNOTES

[1] Congressional Quarterly Weekly Report, 4/27/91.

[2] 5/21/82 letter from Kenneth Duberstein, White House head of Congressional liaison, to Senator Rudy Boschwitz: "The removal of Iraq from the list of countries supporting international terrorism is intended both to recognize Iraq's improved record and to offer an incentive to continue this positive trend."

Contrast this with statement by Noel Koch, the Defense Department's head of counterterrorism at the time: "No one had any doubts about his [Saddam's] continued involvement with terrorism . . . The real reason was to help them succeed in the war with Iran." [Washington Post, 9/16/90].

[3] New York Times and Washington Post, 8/26/92.

[4] Washington Post, 9/24/92.

[5] Memorandum for Donald Gregg (National Security Assistant to Vice President Bush) from Charles Hill, Executive Secretary to Secretary of State George Shultz, "Subject: Ex-Im Bank Financing for Iraqi Export Pipeline," 6/12/84.

[6] Washington Post, 3/8/83; The Guardian, 3/13/83. The latter identifies the assassin as "a colonel in the Iraqi intelligence service."

[7] Washington Post, 10/16/85.

[8] Acknowledged in State Department memorandum to Secretary Schultz from Frank McNeil, Acting Director of Bureau of Intelligence and Research, "Iraq's Retreat from International Terrorism," 7/1/86. As to the "retreat" referred to in the title, the memo states that it has been "painfully slow."

[9] Memorandum for the Secretary of Defense from Assistant Secretary for International Security Policy Richard Perle. "High Technology Dual Use Exported for Iraq," 7/1/85; see also Memorandum for Under Secretary of Defense for Policy from Assistant Secretary Perle, "Computers for Iraq," 3/10/85.

[10] Memorandum for Donald Gregg (National Security Assistant to Vice President Bush) from Melvyn Levitsky, Executive Secretary to Secretary of State Shultz, "Subject: The Vice President's March 2 Meetings with Iraqi Ambassador Nizar Hamdoon," 2/26/87 [published in Congressional Record, 2/24/92, pp. H 519–520].

[11] Idem.

[12] Congressional Record, 9/12/88, p. S. 12309; Congressional Record, 10/7/88.

[13] 1991 testimony by the US Customs Service to the House Ways and Means Committee, cited in Congressional Record on 8/10/92, p. H 7876.

[14] Memo from Paul J. Hare, Acting Assistant Secretary for Near Eastern and South Asian Affairs, to Secretary Baker, "Subject: Meeting with Iraqi Under Secretary Nizar Hamdun", 3/23/89.

[15] House of Representatives, Committee on Energy and Commerce, Nuclear Nonproliferation, Hearing, 4/24/91.

[16] Los Angeles Times, 8/6/92; Congressional Record, 8/10/92, pp. H 7872–7876.

[17] Memorandum, Assistant Secretary Kelly to Under Secretary Bartholomew, "The BNL Scandal and Trade With Iraq," 9/22/89, included in Congressional Record, 7/21/92, p. H 6345. Also Los Angeles Times, 7/22/92.

[18] Los Angeles Times, 2/25/92

[19] Los Angeles Times, 8/6/92; Congressional Record, 8/10/92, pp. H 7872–7876.

[20] National Security Directive 26, "US Policy Towards the Persian Gulf" addressed to the Vice President, Secretary of State, Secretary of Defense, Assistant to the President for National Security Affairs, et al., 10/2/89.

[21] Memorandum of conversation from Frank Lemay, Special Assistant to the Under Secretary for

Economic Affairs, to Under Secretary McCormack, Legal Advisor Sofaer, Acting Assistant Secretary Jock Covey, et al., "Subject: USDA Comments on Investigations of Iraq and the BNL-Atlanta Scandal," 10/13/89:

"It now appears that, at minimum, elements of the government of Iraq knew of the illegal dealings . . . If smoke indicates fire, we may be facing a four alarm blaze."

[22] Memorandum to Secretary Baker from Assistant Secretary Kelly and Legal Advisor Sofaer, 10/26/89.

[23] New York Times, 7/9/92; Washington Post, 7/9/92.

[24] Los Angeles Times, 7/22/92.

[25] Congressional Record, 9/14/92.

[26] State Department Memorandum, Assistant Secretary Kelly to Under Secretary Kimmitt, "NAC Deputies Meeting on the CCC Program for Iraq," 11/8/89; Letter, Under Secretary of State Eagleburger to Under Secretary of Treasury Robson, 11/8/89; numerous documents included in Congressional Record, 3/2/92, pp. H 858–870; "BNL Chronology," House Banking Committee.

[27] Federal Register (Vol. 55, No. 28), 2/9/90, "Application of the Export-Import Bank Restrictions in Connection with Iraq."

[28] US Congress, House of Representatives, Developments in the Middle East, Hearing before the Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs, 7/31/90; Bruce Hoffmann, The Ultimate Fifth Column; Saddam Hussein, International Terrorism and the Crisis in the Gulf, RAND Corporation Report P–7668, 8/90.

[29] Cable from Secretary of State Baker to Ambassador April Glaspie, 2/27/90; Letter from Ambassador Glaspie to Iraqi Foreign Minister Tariq Aziz, 2/28/90, full texts included in Stanley Kober, Appeasement and the Gulf War, Progressive Policy Institute, 7/92.

[30] Memorandum, Federal Reserve Board of New York, to Mr. Corrigan from Thomas C. Baxter, Jr., "Subject: Lavoro", 4/5/90: "I followed up on your suggestion about a possible connection between BNL and the nuclear triggers that were seized in London. As you suspected, there is a connection."

[31] New Republic, 11/5/90; CQ Weekly Report, 4/27/91.

[32] One meeting on 4/16 and one on 5/29: Source is Memorandum, US Department of Commerce, from Iain S. Baird to Dennis Kloske, "Subject: The NSC and Iraq," included in Congressional Record, 7/21/92, pp. H 6345–6346; also Los Angeles Times, 2/24/92.

[33] US Congress, Developments in the Middle East; Hoffmann, The Ultimate Fifth Column.

[34] Washington Post, 3/11/91.

[35] Memo to Secretary Baker from William Rope, Jock Covey, Michael Matheson and Eugene McAllister, "Subject: Foreign Policy Controls for Proliferation-Related Exports to Iraq", (7/19/90).

[36] Glaspie stated to Saddam that she "carried direct instructions from the President to seek better relations with Iraq." Also, the day before the Glaspie-Saddam meeting, Margaret Tutwiler stated that "we do not have any defense treaties with Kuwait, and there are no special defense or security commitments to Kuwait." Washington Post, 9/12/90; New York Times, 9/23/90.

[37] Bush denials, in addition to those cited below:

Rep. Gonzalez letter to President Bush, 1/31/92, asserting that Bush's report (still secret) submitted to Congress as required by the Iraq Sanctions Act of 1990 concludes that "US firms did not contribute directly to Iraq's conventional and nonconventional capabilities," but Gonzalez asserts that "the report to Congress is clearly inaccurate. In fact, numerous US companies provided critical support to Iraqi weapons programs, including missiles."

Bush's 8/25/92 American Legion speech allegedly warning about "madmen who we cannot let get their finger on the nuclear trigger."

[38] In a press conference in Rio de Janeiro on 6/13/92, Bush said: "Our policy was well-known. We tried to bring Saddam Hussein into the family of nations. That policy was not successful. We did not enhance his nuclear, biological, or chemical weapon capability, a charge recklessly made in this political year."

In an appearance on CBS "This Morning" on 7/1/92, Bush said: "We did not go to enhance his *nuclear*, biological, or chemical capability. I have an executive order out on specifically that. And you have repeated something that isn't true."

[39] Congressional Record, 7/21/92.

[40] Figure by Rep. Sam Gejdenson as cited in Los Angeles Times, 7/2/92.

[41] "Strengthening the Export Licensing System," a report by the House Government Operations Subcommitee on Commerce, Consumer, and Monetary Affairs, 7/2/91.

[42] Congressional Record, 5/18/92, p. H 3373; Congressional Record, 2/3/92, p. H 213.

[43] Washington Post, 2/10/91.

[44] Licensing Mass Destruction: US Exports to Iraq," Wisconsin Project on Nuclear Arms Control report, 6/91; "Strengthening the Export Licensing System," a report by the House Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, 7/2/91.

[45] Congressional Record, 7/27/92, pp. H 6702–6704.

[46] "Approved Licenses to Iraq," Lists submitted to the House Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, 3/7/91.

[47] Congressional Record, 7/21/92, p. H 6346.

[48] Washington Post, 7/22/92.

[49] Congressional Record, 8/10/92, p. H 7873.

[50] Congressional Record, 7/21/92, p. H 6342.

[51] DoD opposed sales to SAAD 16 "because of the high likelihood of military end use and the association of the involved companies in sensitive military applications" [DoD memo cited by Elaine Sciolino, The Outlaw State, p. 142.] See also an 8/9/88 DoD Office for Non-Proliferation analysis: "almost all the labs named [at Saad 16] deal with areas applicable to missile research and production" [Timmerman, The Death Lobby, p. 207].

[52] "Approved Licenses to Iraq," Lists submitted to the House Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, 3/7/91.

[53] New York Times, 7/26/92 and Los Angeles Times, 7/24/92 and 8/7/92.

[54] Idem.

[55] Washington Post, 4/29/92; Los Angeles Times, 2/24/92 and 2/25/92.

[56] Los Angeles Times, 2/25/92.

CHRONOLOGY ON IRAQGATE

1982–90: Despite evidence that Iraq is still supporting terrorism, Baghdad is removed from the terrorist list, a critical decision allowing it to receive billions in U.S. aid and the advanced equipment that Iraq later uses for its nuclear program.[1]

Iraq assists the June 1982 terrorist attack on the Israeli Ambassador in London, setting off the Lebanon war.

In October 1985, Saddam Hussein helps Abu Abbas escape after the Achille Lauro hijacking and murder of American Leon Klinghoffer.

Israel stops a May 1990 Iraqi-backed Palestinian attack off its coast.

By early 1990, Rand Corporation estimates, 1,400 terrorists operating out or Iraq.[2]

U.S. approves $96 million worth of computer exports to front companies for every known nuclear, chemical and missile site in Iraq.[3]

Only after Iraq's invasion of Kuwait does the Administration "determine" that Iraq is again supporting terrorism.[4]

1984–90: As Vice President, Bush twice successfully lobbies Export-Import Bank chairmen to override bank economists and approve nearly $700 million loan guarantees to Iraq.[5] After Bush became President, senior officials in his Administration lobby the Export-Import Bank and USDA to finance billions in new Iraqi projects.[6]

1985–89: As early as 1985, the Defense fears Iraq is diverting technology to its nuclear program.[7] By April 1989, the CIA details Iraqi efforts to obtain nuclear weapons technology from European companies.[8] All told, Saddam Hussein spends $10–20 billion on nuclear weapons and missile technology in the 1980s.[9] A December 1990 memo to Secretary of State Baker admits that: "No one was paying attention to the need to block NCW [nonconventional weapons, or weapons of mass destruction]."[10]

1985–90: Some 410 licenses for $1.5 billion worth of goods with potential nuclear applications are approved by the Reagan and Bush Administrations between 1985–90; 116 are disapproved.[11]

U.N. inspectors examining Iraqi nuclear-weapons facilities find that U.S.-built systems have been reconfigured to help Iraq enrich uranium for nuclear weapons, as the manufacturer had warned in 1988.[12]

American machine tools may be used to build Scud missiles that hit Tel Aviv and kill U.S. troops in Saudi Arabia.[13]

U.S. radar parts may have helped shoot down U.S. aircraft.[14]

1986 Despite the Reagan Administration's official policy of neutrality in the Iran-Iraq war, then-Vice President George Bush relays important, strategic military advice about Iran to Hussein.[15]

1988: State Department official writes: "Even though it was removed from the terrorism list six years ago, [Iraq] had provided sanctuary to known terrorists, including Abu Abbas of Achille Lauro fame."[16]

March 1988: Saddam Hussein uses chemical weapons against Kurdish town of Halabja.

1988: After Iran-Iraq War ends, Saddam Hussein launches further chemical weapons attacks on the Kurds. The Reagan-Bush Administration opposes Senate efforts to impose sanctions on Iraq.

1989: Overriding Defense Department objections, the State Department recommends allowing Hussein to obtain sophisticated equipment to protect his personal airplane and three presidential aircraft.[17]

1989–90: Despite increased warnings inside the Administration that U.S. policy toward Iraq is misdirected, Bush's tilt toward Saddam Hussein continues after the Iran-Iraq war ended. Instead of merely keeping Hussein afloat as a counterweight to Iran, Bush's aid program helps the dictator become a dangerous military power in his own right, able to threaten the very U.S. interests that the program originally was designed to protect.[18]

1989–90: Despite a 1989 Defense Department discovery that an Iraqi front company in Cleveland, Ohio is funnelling millions of dollars of U.S. technology to Iraq's nuclear weapons and ballistic missile programs, the Administration allows it to continue operating for more than a year until after Iraq invades Kuwait.[19] and an Alabama firm is allowed to continue building an important part of Iraq's main nuclear weapons complex.[20]

March 1989: Baker is warned by State Department officials that Iraq is "working hard" on chemical and biological weapons and that terrorists are still operating from Iraq.[21]

April 89: Administration official reports: "Recent evidence indicates that Iraq has a major effort under way to produce nuclear weapons."[22]

June 89: Defense Intelligence Agency reports on Iraq's military procurement network.[23]

Sept. 89: One month before Bush orders closer ties to Baghdad, James Baker is warned in a CIA report that Iraq is developing a "nuclear weapons capability." Although the report lists the specific technology sought by the Iraqis—such as high-speed cameras, X-ray machines, and sophisticated computers—the Administration subsequently allows the technology's export anyway.[24]

Oct. 89: Ten months before Iraq invades Kuwait and at a time when international bankers have cut off virtually all loans to Hussein, Bush signs the secret National Security Directive 26, ordering closer ties with Baghdad and opening the way for massive new aid.[25]

Oct. 89: Because USDA officials—worried about Iraq's poor credit record and misuse of the U.S. agricultural loan guarantee program—are blocking additional aid to Baghdad, Baker phones and successfully lobbies Agriculture Secretary Clayton Yeutter to approve the $1 billion in aid anyway.[26]

Nov. 89: The CIA warns that "Baghdad has created [a] complex procurement networks of holding companies in Western Europe to acquire technology for its chemical, biological, nuclear, and ballistic missile development."[27]

Nov. 89: Even though officials know that Iraq is diverting dual-use equipment—advanced equipment that can be used for both military and civilian purposes—to nuclear weapons technology, the State Department recommends against tightening export licenses.[28]

Jan. 90: Despite new evidence that Iraq is testing ballistic missiles and stealing nuclear weapons technology, Bush waives congressional restrictions on Iraq's use of the Export-Import Bank.[29]

Spring 90: Despite evidence that the Iraqis are working on nuclear arms and other weapons of mass destruction, senior Bush aides continue to override other government officials' concerns, allowing Saddam Hussein to continue buying "dual use" technology.[30]

March 90: Iraqi efforts to smuggle nuclear trigers out of Great Britain is discovered.[31]

April 90: As senior Administration officials work to get him more aid, Hussein brags that he has chemical weapons and threatens to "burn half of Israel."[32]

April 90: For months before Iraq invades Kuwait, the White House blocks Commerce Department efforts to stop the flow of U.S. technology to Iraq. Says one senior offical: "The president does not want to single out Iraq."[33]

May 90: Three months before the Iraqi invasion, the Bush Administration shares intelligence information on Iranian troop movements with Iraq.[34] Some speculate this later helps Iraq to learn to shelter its weapons from U.S. surveillance during Operation Desert Storm.[35]

May 90: As a response to Bush's secret October 1990 directive, the Defense Department and Joint Chiefs of Staff continue to plan a joint military training and exchange program with Iraq.[36]

July 90: As late as one month before the Iraqi invasion, Bush Administration officials continue pushing to deliver another installment of agricultural loan guarantees.[37] Additional dual-use high-technology export licenses are granted.[38]

July 90: Less than a week before Iraq invades Kuwait, Bush opposes congressional efforts to impose sanctions on Iraq.

Aug. 90: On August 2 Iraq invades Kuwait.

Jan. 91: At the start of Desert Storm, Bush cites Iraq's potential to develop and deploy nuclear weapons as one reason for launching the air war instead of continuing economic sanctions. In his televised address to the nation, Bush says: "We are determined to knock out Saddam Hussein's nuclear bomb potential."[39]

Jan. 91: Allied air war against Iraq begins.

Feb. 91: Bush ends land assault against Iraq.

1992: United Nations inspectors discover that Saddam Hussein is much closer to building a nuclear bomb than previously thought. Some experts believe that because of U.S. pre-war aid, Iraq will eventually have a nuclear bomb.[40]

1992: In an apparent violation of post-Desert Storm presidential orders banning aid to Iraq, the Administration pays $416 million to a bank partially owned by Iraq and despite evidence that the bank is helping finance a loan to a shipyard owned by Iraq and Libya. Payment is made after Iraq defaults on the loan it owes the bank.[41]

FOOTNOTES

[1] George Bush on CBS Morning News, July 1, 1992.

[2] Bruce Hoffmann, "The Ultimate Fifth Column: Saddam Hussein, International Terrorism, and the Crisis in the Gulf," Rand Corporation, August 1990.

[3] Gary Milhollin, "Building Saddam Hussein's Bomb," New York Times Magazine, March 8, 1992; Gary Milhollin, Licensing Mass Destruction, A Report of the Wisconsin Project on Nuclear Arms Control, 1991.

[4] Congressional Research Service, "U.S. Policy Towards Iraq: 1980–1990," June 26, 1992.

[5] Doug Frantz and Murray Waas, Los Angeles Times, "Saudi Arms Link to Iraq Allowed," April 18, 1992.

[6] Doug Frantz and Murray Waas, Los Angeles Times, "Bush Secret Effort Helped Iraq Build Its War Machine," February 23, 1992.

[7] Doug Frantz and Murray Waas, Los Angeles Times, "U.S. Documents Dispute Bush on A-Arms Policy," July 2, 1992.

[8] Doug Frantz and Murray Waas, Los Angeles Times, " New Documents Show Bush Aides Favored Helping Iraq," September 4, 1992.

[9] Doug Frantz and Murray Waas, Los Angeles Times, "U.S. Knew Firm Was Iraq's Year Before It Was Closed," July 24, 1992.

[10] Richard Clarke's December 1990 memorandum to Secretary of State James Baker.

[11] "U.S. Knew Firm," supra.

[12] "Building Saddam Hussein's Bomb," supra.; Licensing Mass Destruction, supra.

[13] Licensing Mass Destruction, supra.

[14] Licensing Mass Destruction, supra.

[15] Doug Frantz and Murray Waas, Los Angeles Times, "Bush Tied to '86 Bid to Give Iraq Military Advice," May 7, 1992.

[16] Doug Frantz and Murray Waas, Los Angeles Times, "Bush Had Long History of Support for Iraq Aid," February 24, 1992.

[17] July 18, 1989 State Department memorandum.

[18] Ibid.

[19] "U.S. Knew Firm," supra.

[20] Doug Frantz and Murray Waas, Los Angeles Times, "Iraq Used American-Built Plant to Develop A-Arms," August 7, 1992.

[21] March 23, 1989 State Department memorandum to Secretary Baker.

[22] Doug Frantz and Murray Waas, Los Angeles Times, "High-Tech Aid Flowed as Iraq Built Force," June 29, 1992.

[23] Congressional Record, August 10, 1992.

[24] Doug Frantz and Murray Waas, Los Angeles Times, "Iraq Got U.S. Technology After CIA Warned Baker," July 22, 1992.

[25] Ibid.

[26] Doug Frantz and Murray Waas, Los Angeles Times, "U.S. Loans Indirectly Financed Iraq Military," February 25, 1992.

[27] Doug Frantz and Murray Waas, Los Angeles Times, "CIA Told White House of Iraq's Arms Effort," August 6, 1992. November 6, 1989 CIA report.

[28] "CIA Told White House of Iraq's Arms Effort," supra.

[29] "New Documents Show Bush Aides Favored Helping Iraq," supra.

[30] Ibid.

[31] R. Jeffrey Smith, Washington Post, "Pentagon Sought Exchange With Iraq; 3 Months Before Kuwait Invasion, U.S. Pushed Military Training Plan," August 4, 1992.

[32] Ibid.

[33] "Bush Had Long History," supra.

[34] "U.S. Gave Data," supra.

[35] Doug Frantz and Murray Waas, Los Angeles Times, "U.S. Gave Data to Iraq 3 Months Before Invasion: Persian Gulf: Documents Show Intelligence Sharing With Baghdad Lasted Longer Than Previously Indicated," March 10, 1992.

[36] "Pentagon Sought Exchange With Iraq," supra.

[37] "Bush Secret Effort," supra.

[38] Washington Post, March 11, 1991.

[39] "Iraq Got U.S. Technology," supra.

[40] "Building Saddam Hussein's Bomb," supra.

[41] Doug Frantz and Murray Waas, Los Angeles Times, "U.S. Aid to Gulf Bank Criticized," September 25, 1992.

DUAL USE TECHNOLOGY SOLD TO IRAQ

1985–1990 (EXAMPLES)

30% of U.S. non-agricultural exports to Iraqi military-industrial complex (1985–1990).

Powerful computers used for missile testing.

Technology for the Condor II missile.

Parts for the "Super-gun".

Machine tools, lasers and other equipment used for SCUD–B missile enhancement.

Carbide-tipped machine tool factory used for nuclear weapons.

Glass-fiber "shower stall" factory—really nuclear weapons.

Computers for "detergent" factory—really chemical weapons.

17 licenses for bacterial culture exports to Iraqi agencies known to be involved in biological warfare research.

UN Commission: equipment from 11 U.S. companies found in Iraqi missile and chemical plants.

Computers to MIMI, Flight simulators to Sa'ad 16 on eve of invasion.

TYPICAL CUSTOMERS

Ministry of Industry and Military Industrialization (MIMI): run by Saddam's son-in-law, "controlling Iraq's arms production facilities".

Sa'ad 16 missile complex: a "bad end-user" (DOD).

Mr. BOREN. Mr. President, I strongly support ratification of the treaty on the reduction and limitation of strategic offensive arms. The START Treaty is a real advance in arms control, the first treaty to roll back the level of strategic arms. In a world of increasing instability, much of it within the what was once Soviet territory, it is especially important to reduce and control the weapons that could unleash the horrors of a nuclear war.

I want to speak not as a START supporter, however, but rather as chairman of the Select Committee on Intelligence. As a service to the Foreign Relations Committee and the Senate as a whole, the select committee supports the Arms Control Treaty ratification process by providing its assessment of the monitoring and counterintelligence issues raised by each Arms Control Treaty submitted to the Senate for advice and consent to ratification.

On Friday, September 18, we issued both classified and unclassified reports to the Senate on "capability of the United States to monitor compliance with the START Treaty." The unclassified report was sent to each Member of the Senate and was also published in the CONGRESSIONAL RECORD for that day. We have additional copies here today for interested Members or staff.

Members of the Senate were also invited to examine the select committee's more detailed, classified report, and I encourage every Member, Mr. President, to examine that report today. The report is available upstairs in room S–407 of the Capitol; we can also bring a copy to the Vice President's office, if any Member wishes to examine it there.

This report is the culmination of the committee's work over the last 9 years monitoring the progress of START. The committee has routinely reviewed START progress and addressed START monitoring capabilities in its annual intelligence authorization acts, and has expressed its views on verification issues to the negotiators and other senior level officials both formally and informally.

In preparing this report, committee staff held three on-the-record staff

briefings; reviewed several hundred documents, including both a national intelligence estimate on U.S. capabilities to monitor compliance with START provisions and written statements from the Director and Deputy Director of Central Intelligence; and received answers to nearly 200 formal questions for the record. Committee staff also inspected relevant U.S. monitoring operations to gain a firsthand knowledge of how the intelligence community collects, and how its analysts use, information bearing upon other countries' compliance with arms control agreements signed by the United States.

On July 22 and July 29, the committee held closed hearings on the START Treaty, U.S. monitoring capabilities, the risks and implications of violations by the other parties to the treaty, its implementation, and its counterintelligence and security implications. Testimony was taken at these hearings from officials of the State Department, the Arms Control and Disarmament Agency, the Department of Defense—including the onsite inspection agency—the Joint Staff of the U.S. Armed Forces, and the U.S. intelligence community.

The committee's reports address the START's verification provisions, U.S. collection and analytical capabilities, cooperative measures, evasion scenarios, incentives and disincentives to evade compliance, counterintelligence issues, and implementation concerns.

Mr. President, I would now like to summarize very briefly the key unclassified findings from the committee's classified report.

First, the committee concurs in the judgment of the Director of Central Intelligence and other intelligence community officials that,

> While there are some areas that will be problematic, we are confident that we can monitor most aspects of the treaty well.

Members of the Senate should understand, however, that U.S. intelligence will have less than high confidence in its monitoring of such areas as nondeployed mobile ICBM's, the number of RVS actually carried by some ICBM's and SLBM's, and some provisions relating to cruise missiles and the heavy bombers that carry them.

Second, the START Treaty is not perfectly monitorable. There are both residual uncertainties regarding SOVIET/CIS data on nondeployed missiles and also cheating scenarios—which may be difficult to implement and offer only small advantages to the perpetrator, but do appear feasible if CIS or Russian forces and the industrial facilities that support them were sufficiently determined.

Third, economic decline and reform in the former Soviet Union have combined with the rise of new States there, however, to make major arms development programs increasingly difficult to pursue. It appears unlikely, moreover, that even an aggressive, nationalistic regime in Russia could restore the old order to the degree necessary to significantly increase the prospects for successful cheating on the scale necessary to affect the strategic balance.

Fourth, the decreased threat posed by the U.S.S.R.'s successor States is critical to the committee's general confidence in United States START monitoring capabilities. Were the Soviet Union still the united, aggressive and militarily effective force that it often was in the past, then the current and future limitations of United States monitoring capabilities and the existence of plausible cheating scenarios would prompt much more concern.

Fifth, the committee considers Russian compliance with existing arms control agreements and with measures to guard against the export of sensitive nuclear and missile materials and technology to be important indicators of that country's reliability as an arms control partner. The committee is deeply concerned, therefore, over recent reports regarding Russia's Biological Weapons Program and its implementation of the CFE Treaty. The recent joint United States-British-Russian statement regarding exchanges of information and visits to biological sites, including nonmilitary sites in Russia, is a positive development.

Sixth, due to frictions between some parties to START and to the current state of political and economic flux in the former Soviet Union, the committee considers it likely that some problems will occur in implementing the treaty. The problems most likely to arise would result not from cheating schemes, but from economic or political difficulties within or among the former Soviet parties to the treaty.

Seventh, in the longer run, compliance with START could help to mitigate the prospects for strife among the larger States that have succeeded the Soviet Union. START also provides an arena in which the four Soviet successor States can cooperate with each other and with the United States.

Eighth, the executive branch was hopeful that an agreement among the former Soviet Republics regarding START implementation could be reached likely before the Senate acts on the treaty. The committee urges the Acting Secretary of State to give this matter his personal attention and to impress upon the other parties to start the high priority that the Senate and the U.S. Government as a whole put upon achieving agreement regarding implementation of the START Treaty, the Lisbon protocol and its associated letters.

Ninth, the intelligence community played a significant role in all stages of the START negotiations, probably a greater role than it has in any prior arms treaty negotiation. Intelligence community personnel helped develop the verification measures included in the treaty—including the provisions regarding telemetry from ballistic missile flight-tests.

Tenth, U.S. monitoring of START compliance will be aided substantially by the treaty's verification provisions, especially those regarding telemetry and technical characteristics exhibitions. Important improvements are planned in some relevant intelligence programs, while declining budgets will cause difficulties in others. The committee's fiscal year 1993 intelligence budget authorization actions reflect its concern that U.S. intelligence capabilities remain fully capable of monitoring compliance with START and other arms control treaties.

Eleventh, the Intelligence Committees agrees with the Director of Central Intelligence that cheating scenarios involving the possible covert production and deployment of Mobile ICBM's and other launchers are particularly worrisome. The committee believes that the possible existence of covert, nondeployed mobile missiles must remain an important U.S. intelligence target.

Twelfth, the text of a few START provisions could lead to compliance disputes. Problems with treaty language interpretation are not unique to START, however, and the committee believes that there are no START Treaty text problems that are so serious as to require immediate adjustment.

Thirteenth, the onsite inspection agency is well prepared to implement onsite inspection in the former Soviet Union and escorting of other parties' inspectors in the United States, due to its experience with other arms control treaties and the long time that it has had to locate and train personnel.

Fourteenth, Defense Department and other relevant officials are taking steps to meet the need to guard against Russian or other parties' use of START inspection rights as a cover for illegal intelligence activity. The Committee has been assured that the administration will prepare internal procedures for dealing with special access visits that "will explicitly consider proprietary interests as well as security in our deliberations on requests for special access visits."

Fifteenth, further policy guidance may be necessary to ensure that defense contractor and U.S. Government facilities do not take unnecessary and costly security measures because of the potential for special access visits.

Sixteenth, the committee reserves judgment on the question of whether the overall START verification regime will prove sufficient to monitor Russian compliance with the limits of a new treaty drafted pursuant to the Bush-Yeltsin joint understanding of June 17, 1992. Once the new treaty is

signed and submitted for advice and consent to ratification, the Senate will have to judge it on its own merits.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that during the remainder of today's session, the following be the only amendment in order, if timely filed and germane, and limited to the following time limitation to be offered to either the treaty or protocol: An amendment by Senator WALLOP numbered 3270, 1 hour, equally divided.

I further ask unanimous consent that when the Senate resumes executive session tomorrow, Wednesday, September 30, at 9 a.m., a vote occur on or in relation to the Wallop amendment No. 3270, without any intervening action or debate; and that following the disposition of the Wallop amendment No. 3270, the treaties be advanced to their various parliamentary stages, up to and including the presentation of the resolution of ratification; and that the committee reported amendment be considered agreed to and treated as original text for the purpose of further amendments, and the following amendments be the only amendments in order, if timely filed and germane, and subject to the following time limitations:

An amendment by Senator PRESSLER, No. 3227, 20 minutes equally divided; an amendment by Senator WALLOP, No. 3283, 30 minutes equally divided; an amendment by Senator WARNER, No. 3243, 20 minutes equally divided; an amendment by Senator WARNER, No. 3240, 1 hour equally divided; further, I ask unanimous consent that a vote occur without any intervening action or debate on the resolution of ratification, as amended, at 9:30 a.m., on Thursday, October 1, 1992. I also ask unanimous consent that prior to the disposition of the final amendment to the resolution of ratification, the Senate resume legislative business only for consideration of routine morning business and legislative items that have been cleared by the two leaders, and that upon disposition of the final amendment to the resolution of ratification, all provisions of rule XXII cease to be in effect.

Mr. WARNER. Mr. President, reserving the right to object, Mr. President, I direct the leader's and other Senators' attention to amendment 3240, on which the Senator from Virginia now has agreed to a lesser time, namely 1 hour, equally divided. It would be my intention, at the appropriate time, Mr. President, to ask unanimous consent that that amendment be amended in such a fashion as I hope it will be acceptable by the administration and, therefore, eventually by the managers of the treaty. So that is the reason I wish to alert Senators that I have agreed to a lesser period of time. I thank the leader.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, and I do not think I shall. I want to be certain that the final ratification vote, as I understood the distinguished majority leader, was 9:30 on Thursday.

Mr. MITCHELL. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, if I could explain the effect of this and the situation with respect to votes. Under this agreement, Senator WALLOP will now offer amendment No. 3270, which will be debated this evening, and the vote on that will occur at 9 a.m. That will complete action on amendments to the treaty or protocol. We would then proceed to the consideration of the resolution of ratification, and under this agreement, only four amendments are in order to that. I am advised by the managers that two of them will be accepted; that is, the Pressler amendment, No. 3227, so that will not require a recorded vote; and the Warner amendment, No. 3243, which will not require a recorded vote.

The remaining two amendments, Senator WALLOP's No. 3283, 30 minutes equally divided, will require a vote, if offered; and the Warner amendment, No. 3240, 1 hour equally divided, all in its current form, require a recorded vote.

The Senator knows, as we discussed, that he does not have the right to modify it tomorrow. But he has given notice that he intends to do so, I take it.

Mr. WARNER. That is correct. If that is the case, in all probability, it will be accepted by the managers, and it would negate the necessity for a recorded vote on the 3240.

Mr. MITCHELL. Right, Furthermore, I have discussed this with Senator WARNER, and he has indicated that in whatever form the amendment is offered, whether a vote or not, he will be present at 9:30 tomorrow morning to offer that amendment. Therefore, if it does require a debate and vote, the vote on that is likely to occur around 10:45, I would say, or somewhere in that range, depending upon the length of time consumed in the debate.

Mr. WARNER. Mr. President, that is the agreement I indicated to the majority leader and the Republican leader, and it is acceptable to the Senator from Virginia.

Mr. MOYNIHAN. May I ask of the majority leader, there will be time for just general statements about the treaty tomorrow, will there not?

Mr. MITCHELL. Yes, there will be, and there will be unlimited time this evening, as well.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum, so that I can review this agreement.

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.

LEGISLATIVE SESSION

TAX ENTERPRISE ZONES ACT

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session and the clerk will report the bill, H.R. 11.

The assistant legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The majority is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that notwithstanding the previous order and third reading of the bill, H.R. 11, that it now be in order for Senator BENTSEN to be recognized to offer a first degree amendment containing the text of S. 3274, as introduced, with a second degree Dole amendment in order to the Bentsen amendment; that no other amendments be in order; that the Senate proceed to vote immediately on the Dole amendment followed immediately by a vote on the Bentsen amendment, as amended, with all of the above occurring without intervening action or debate.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, reserving the right to object, I have no intention of objecting. This amendment is going forward. It is somewhat controversial. I have had extensive discussions with the Senator from Texas [Mr. BENTSEN] and the Senator from New York [Mr. MOYNIHAN].

We have received assurances that if we cannot get the matter rectified in the conference the matter in issue would be disposed of and dropped. Under those circumstances, I have no objection. But I do have serious concerns about the language as presently written.

Mr. BENTSEN. Mr. President, the amendment that Senator PACKWOOD and I have sent to the desk is an amendment that addresses critical funding issues in Medicare and Medic-

aid that must be resolved before the end of the year. This amendment contains the same provisions as the Medicare and Medicaid Amendments Act bill we introduced last Friday. Some of the amendment's most critical provisions extend expiring provisions of law for enhanced Medicare payment to small rural Medicare dependent hospitals, regional referral centers, and payment for hemophilia clotting factor for Medicare hospital inpatients. Authorization for the rural health transition grants and other expiring programs would be extended. Failure to enact these provisions before the end of the session will result in sharply reduced Medicare funding for those health care providers least able to weather such financial hardships.

In addition to critical funding issues, this amendment includes a limited number of time-sensitive and high priority issues, such as repealing the prohibition on separate payment for electrocardiograms [EKG's]; reinstating equal payments for new physicians and other practitioners; phasing in expanded coverage for immunosuppressive drugs for transplant patients; broadening coverage for nurse practitioners and physicians' assistants, and tightening fraud and abuse provisions for durable medical equipment. The amendment also includes provisions to enable States to provide comprehensive substance abuse treatment to pregnant women; to permit States to provide Medicaid coverage to more foster children, and to enhance access to childhood immunization services.

Funding the funding necessary to offset spending for critical provisions is a difficult, but necessary task. We are convinced that the savings provisions in this amendment are reasonable. We looked very carefully to find targeted savings without jeopardizing the quality of the care provided to Medicare beneficiaries. The Congressional Budget Office estimates that this amendment complies fully with the pay as you go Budget Act requirements, and that it would not increase the deficit over the 5-year budget window as a whole, nor in any individual year.

For my colleagues who may be concerned about taking up an amendment of this size in the late days of the session, I would like to note that almost half the pages consist of the provisions of S. 3120, the Medicaid Technical Corrections and Clarification Act, which Senator PACKWOOD and I introduced on August 3, 1992. These provisions were included here in order to simplify the legislative drafting of cross-references to the Medicaid statute included in the rest of the bill.

Because so little time remains and it is critical that these provisions be enacted before the end of the session, I urge your support of this important amendment.

Mr. METZENBAUM. Mr. President, on Saturday, the chairman sought unanimous consent to include an amendment to the pending tax bill to make certain changes in Medicare and Medicaid. As I stated at that time, I had great reservations about adopting a 200-page amendment that I had not had an opportunity to review. Since that time, I have reviewed the amendment. I believe the amendment contains a number of important provisions, particularly the provisions protecting Medicare beneficiaries from being charged more than the Medicare limits. But, I also am troubled by certain provisions expanding the use of managed care waivers by the States.

Mr. BENTSEN. I know that my colleague is concerned about a few of the provisions in the amendment. It is my understanding that our staffs have been working together to address the Senator's concerns. Our staffs, along with the staff of Senator MOYNIHAN, have made great progress and I believe that the concerns of the Senator from Ohio can be addressed in conference. I believe that Senator MOYNIHAN shares in that view as well.

Mr. MOYNIHAN. Yes, that is correct.

Mr. METZENBAUM. I thank both of my colleagues for their support and willingness to address these issues. I would like to make sure that the Senator from New York and myself are in agreement that the following changes need to be made in the managed care provisions of the amendment.

As I understand it, the provisions will be changed to ensure that extensions of the 75–25 waiver will only be available to nonprofit HMO's. When a plan seeks renewal of a 75–25 waiver, the Secretary will review the application to ensure that the plan meets quality access and solvency standards, as defined by regulations to be promulgated by the Secretary; all plans must have an adequate grievance process for its enrollees; the Secretary will be required to document the basis upon which a waiver is granted or renewed; requests for waivers from the 75–25 provision must be renewed every 3 years.

Mr. MOYNIHAN. I support the changes that the Senator from Ohio is seeking. As the Senator may know, I introduced legislation that contained many of these same standards. I believe that Medicaid beneficiaries are entitled to the strongest health protections feasible.

Mr. METZENBAUM. I thank both of my colleagues for their willingness to work with me on these issues. It is my understanding that these changes will reflect the Senate's position and that the House will be supportive of these changes. If for any reason these changes are not adopted in conference, I would like the assurance of my colleagues that the Senate will insist that the managed care provisions be dropped.

Mr. BENTSEN. I share the Senator's concern that these provisions be strengthened to adequately protect Medicaid beneficiaries. And he has my assurance that I will use my best efforts to make the changes requested in conference or he has to have the provisions dropped.

Mr. MOYNIHAN. I echo the chairman's commitment.

Mr. METZENBAUM. I thank my colleagues for their support on this issue.

MEDICARE AND MEDICAID AMENDMENT

Mr. PACKWOOD. Mr. President, last Friday, September 25, 1992; the chairman of the Finance Committee, this Senator, and others, introduced a bill to address much needed changes in the Medicare and Medicaid Programs. In order to get those important changes made, we are offering this amendment which is exactly the same as that bill.

My remarks on S. 3274, the Medicare and Medicaid Amendments Act of 1992, were included in the RECORD for September 25, 1992, so I will be brief today.

First, I want to emphasize the importance of passing the provisions in this amendment before we adjourn. Many of the provisions are time sensitive and need action now.

Second, I would remind my colleagues that there are a number of key provisions in the amendment that are important to maintaining access to quality health care in rural America. Several of those provisions are especially important to Oregon.

Finally, let me complement the chairman of the committee, and especially the members of the Finance Committee. They have worked hard together to get this amendment before the Senate.

Mr. MITCHELL. Mr. President, I now ask for yeas and nays on the final passage of H.R. 11.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, if I might now explain to Senator the current situation, I am advised that the amendment in the first degree by Senator BENTSEN and in the second degree by Senator DOLE will be accepted without the necessity for a recorded vote. Immediately following that, there will then be a recorded vote on H.R. 11. That will be the final rollcall vote of the evening.

Thereafter, the Senate will return to executive session at which time Senator WALLOP will offer his amendment No. 3270 to be debated under the previous order and the vote on this amendment will occur at 9 a.m. tomorrow morning.

I thank our colleagues.

Mr. DOLE. Mr. President, after this amendment I will attempt to get unanimous consent to offer a second amendment. It will be objected to.

Mr. MITCHELL. That is right after this amendment and prior to the vote,

Senator DOLE be recognized to make the unanimous-consent request regarding this bill.

AMENDMENT NO. 3318

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3318.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROCKEFELLER. I rise in support of Chairman BENTSEN's Medicare and Medicaid amendment to H.R. 11. I am hopeful that its provisions will make their way to enactment. While any description of the substance in this amendment requires some use of the unique, often murky jargon of health care programs, let me emphasize that this amendment's meaning to the people of this country—to families, to children, and to the elderly—could not be clearer. Each individual aspect of the Medicare and Medicaid Programs can make a fundamental difference in the lives of people we represent. That's why I intend to push hard to turn this amendment, with its many improvements in these programs, into law as soon as possible.

This legislation incorporates a number of vital provisions that I am proud to have sponsored and fought for over the past 2 years. Each of them is the result of careful study, and an attempt to respond to the needs of people who deserve the best possible health care.

To be specific, this package contains provisions that will:

Allow Medicare beneficiaries to take oral cancer chemotherapy drugs in their homes rather than traveling—sometimes long distances—to the hospital or their doctor's office to receive IV treatment; and take other steps to respond to the needs of cancer patients.

Ensure Federal relief for hard-pressed, small rural hospitals;

Allow critical research on Alzheimer's disease to continue in West Virginia and throughout the country;

Restore separate Medicare payments to physicians for EKG's and eliminate reductions in payments to new physicians;

Enhance the States' ability to provide the frail elderly with home and community based care.

Expand Medicare and Medicaid reimbursement for nurse midwives' services, such as gynecological checkups, PAP smears, family planning and well baby care; and

Exempt the Veterans' Administration from Medicaid's best price calculations so that it wil be able to negotiate deeper discounts on the drugs it purchases.

And that is just the short list of items that I have personally worked on which are included in this detailed package. I commend the chairman for the inclusion of these very important health policy advances.

There are other components of this bill that constitute important improvements in our health care delivery system and I'd just like to highlight a few for you—improvements that will give States the option to extend health care to all foster children; funding for special outreach demonstration projects to improve immunization rates for children enrolled in the EPSDT Program. Another demonstration program in the bill will allow 5 to 10 States to provide counseling and assistance to seniors who would probably qualify as qualified Medicare beneficiaries [QMB's]. These are small initiatives that should reap tremendous public health benefits.

As in any piece of legislation, there are some things that I would like to see improved or reworked—items that should be more properly considered, but the day is late and time is short. Let me just note that we will undoubtedly have to revisit some of these provisions in the future.

The future also holds the promise of real, comprehensive health care reform that will provide a critical new context for all our health care policy decisions. I anxiously await that new day of reform and in the interim congratulate those who have worked so hard on these significant incremental steps to respond to immediate needs of deserving Americans, in my own state of West Virginia and nationwide.

AMENDMENT NO. 3319

(Purpose: To provide that certain graduate medical education resident amounts will not be paid until fiscal year 1994 and to provide for a demonstration project to study the effect of providing outreach, assessment, and referral services through medicaid to mentally ill homeless individuals.)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. DANFORTH, and Mr. BOND, proposes an amendment numbered 3319 to amendment No. 3318.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

In section 137, amend subsection (b) to read as follows:

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1990, except that for cost reporting periods beginning on or before September 30, 1992, payments required by the amendments made by subsection (a) shall not be made prior to October 1, 1993.

After section 286, insert the following new section:

SEC. 287. DEMONSTRATION PROJECT TO STUDY THE EFFECT OF PROVIDING OUTREACH, ASSESSMENT, AND REFERRAL SERVICES THROUGH MEDICAID TO MENTALLY ILL HOMELESS INDIVIDUALS.

(a) ESTABLISHMENT.—Pursuant to section 1115 of the Social Security Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall provide for demonstration projects to be conducted in no fewer than 1 and no more than 2 States for providing outreach, assessment, and referral services to homeless mentally ill individuals in order to determine the extent to which—

(1) aggressive and repeated efforts to engage such individuals is effective in achieving stable housing arrangements, improving mental health status, and improving overall health status, including the prevention of communicable diseases such as tuberculosis, and

(2) providing a program under title XIX of the Social Security Act for such individuals is an appropriate method for increasing access to medical and social services for such individuals.

(b) REQUIREMENTS ON PROJECTS.—

(1) LOCATION.—Each State conducting a demonstration project under this section shall conduct such project in at least one metropolitan statistical area (as determined by the Bureau of the Census) with a population greater than 1,000,000.

(2) MOBILE OUTREACH TEAMS.—The State shall develop and implement mobile outreach teams to be located within each metropolitan statistical area in which the demonstration project is conducted to—

(A) identify individuals, without regard to whether such individuals are eligible for benefits under title XIX of the Social Security Act, who the mobile outreach teams have reasonable cause to believe may be suffering from a severe mental disorder and who appear to have no permanent residence; and

(B) offer such individuals services, either by providing transport to an assessment-referral center (as described in paragraph (3)) or by providing appropriate assistance to such individuals on site.

If an individual identified under subparagraph (A) refuses such services or assistance from the mobile outreach team and such team has reasonable cause to believe that such individual meets the criteria for involuntary commitment, the team shall provide information on the individual to the appropriate authorities recognized under the State's civil commitment laws.

(3) ASSESSMENT-REFERRAL CENTERS.—The State shall designate assessment-referral centers to be located in each metropolitan statistical area in which the demonstration project is conducted to make available to the individuals identified under paragraph (2)(A)—

(A) services for a period not to exceed 30 days, including—

(i) basic necessities, including clothing, personal hygiene needs, food, blankets, and access to bathing facilities;

(ii) temporary room and board, and referral to appropriate transitional or permanent housing;

(iii) screening and treatment for medical conditions (other than psychiatric conditions), including screening and treatment for tuberculosis, if necessary;

(iv) psychiatric assessments, including assessments regarding alcoholism and drug abuse;

(v) mental health case management services (as defined in section 1915(g)(2) of the Social Security Act);

(vi) emergency psychiatric intervention, if necessary;

(vii) assistance in applying for Federal, State, and local entitlements; and

(viii) referral to other needed services, including employment and job-training services, available in the community;

(B) an individualized treatment plan, developed in cooperation with the individual, for the provision of any necessary mental health services for which payment may be made under the State plan under title XIX of the Social Security Act; and

(C) at the option of the State, any other mental health services for which Federal financial participation is available under title XIX of the Social Security Act, whether or not the service is covered under the State plan.

(4) PRESUMPTIVE ELIGIBILITY PERIOD.—The State may, during a presumptive eligibility period, provide for making available psychiatric and medical services for which payment may be made under the State plan under title XIX of the Social Security Act to individuals described in paragraph (2)(A) through individualized treatment plans.

(c) APPLICATIONS.—

(1) SUBMISSION.—Not later than February 1, 1993, each State desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application, in such manner and containing such information as the Secretary may require.

(2) APPROVAL OF APPLICATIONS.—

(A) IN GENERAL.—Not later than June 1, 1993, the Secretary shall approve no fewer than 1 and no more than 2 of the applications submitted under paragraph (1).

(B) CONSIDERATION OF APPLICATIONS.—In considering the applications submitted by States under paragraph (1), the Secretary shall give a preference to States that have—

(i) linkage and access within the State to a metropolitan service-research project for homeless mentally ill people which can provide, for comparative evaluation purposes, experimentally designed research data on the outcomes of providing an outreach and case management program to homeless individuals,

(ii) a structure under which mental health services and substance abuse services are administered in an integrated or coordinated manner,

(iii) mental health and substance abuse rehabilitation services covered under the State medicaid plan, and

(iv) the ability to provide the services listed in subsection (b)(3) beginning no later than October 1, 1993.

(d) DEFINITIONS.—For purposes of this section:

(1) MOBILE OUTREACH TEAM.—The term "mobile outreach team" means a group of individuals designated by the State whose duty it is to seek out homeless persons who are mentally ill and offer them assistance and access to health, mental health, and social services. Such a team shall be comprised of 2 or more people with appropriate training or experience and at least one of whom shall be a qualified mental health professional.

(2) ASSESSMENT-REFERRAL CENTER.—The term "assessment-referral center" means any facility designated by the State which can provide directly, or by direct arrangement with other public or private agencies, the services listed in subsection (b)(3) except that no correctional institution or facility, shall be considered an assessment-referral center for purposes of this paragraph.

(3) SEVERE MENTAL DISORDER.—The term "severe mental disorder" means an illness, disease, organic brain disorder, or other condition which—

(A) substantially impairs an individual's thought, perception of reality, emotional process, or judgment; or

(B) substantially impairs behavior as manifested by recent disturbed behavior, (except that mental retardation, epilepsy, or other developmental disabilities do not, in themselves, constitute a severe mental disorder for purposes of this paragraph).

(4) INDIVIDUALIZED TREATMENT PLAN.—The term "individualized treatment plan" means a plan for an individual brought to an assessment-referral center which shall describe what medical or psychiatric treatment, if any, the individual will receive after leaving the assessment-referral center, as well as any referrals or other services deemed appropriate.

(5) PRESUMPTIVE ELIGIBILITY PERIOD.—The term "presumptive eligibility period" means the period that—

(A) begins with the date—

(i) after which an individualized treatment plan has been developed, and

(ii) on which a qualified provider determines, on the basis of preliminary information, that the individual is otherwise eligible under the State plan under title XIX of the Social Security Act, and

(B) ends with (and includes) the earlier of—

(i) the day on which determination is made with respect to eligibility of the individual for medical assistance under such State plan, or

(ii) the day that is 60 days after the date on which the provider makes the determination referred to in subparagraph (A)(ii).

(e) LIMIT ON FEDERAL SHARE OF EXPENDITURES AND FUNDING.—

(1) LIMIT ON FEDERAL SHARE OF EXPENDITURES.—In conducting the demonstration projects under this section, the Secretary shall limit the total amount of the Federal share of expenses incurred under title XIX of the Social Security Act to no more than $24,000,000.

(2) FEDERAL FUNDING.—The Secretary shall pay to each State conducting a demonstration project under this section for each quarter (beginning on or after October 1, 1993) in which such project is conducted an amount determined in accordance with section 1903(a) of the Social Security Act except that no percentage applied to any category of expenditures incurred by the State in any such quarter shall be less than the State's Federal medical assistance percentage (as defined in section 1905(b) of such Act).

(f) DURATION.—A demonstration project under this section shall be conducted for a period of no more than 5 years plus an additional period of up to 6 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(g) REPORTS.—Each State conducting a demonstration project shall arrange for an independent evaluation of such project and shall transmit a report on the results of such evaluation to the Secretary not more than 6 months after the conclusion of the project. Such report shall—

(1) evaluate the extent to which the project was successful in assisting homeless mentally ill individuals to—

(A) obtain needed temporary housing as an immediate alternative to homelessness,

(B) obtain mental health treatment and services,

(C) obtain needed substance abuse treatment and services,

(D) obtain and maintain stable, permanent housing,

(E) improve mental health status,

(F) reduce chemical dependency, and

(G) improve health status, including prevention of communicable diseases, and

(2) evaluate the effectiveness and adequacy of title XIX of the Social Security Act for providing access to needed health, mental health, and social services to homeless individuals.

(h) PROVISIONS SUBJECT TO WAIVER.—The Secretary may waive such requirements of the Social Security Act as the Secretary determines to be necessary to carry out the purposes of this section.

MENTALLY ILL HOMELESS STATEMENT

Mr. DANFORTH. Mr. President, the weather is starting to get colder. I cannot bear the thought of reading in the newspaper this winter that a certain homeless man, known to be suffering from a severe mental illness, has frozen to death. The provision I have sought to include in the Medicare and Medicaid Amendments of 1992, which Senator DOLE offered on my behalf, takes a small step to reach out to those with mental illnesses who are living out in the streets.

The Federal Task Force on Homelessness and Severe Mental Illness in a recent report entitled "Outcasts on Main Street" estimates that on any given night, up to 600,000 Americans are literally homeless. Of the homeless, at least one-third suffer from severe mental illnesses. This very vulnerable population is one of the most ill-served and visible groups in our country. Many of them also suffer from substance abuse, physical illness, and other problems.

Senator MOYNIHAN and I introduced a bill, S. 62, to address this problem on the first day of this Congress. We held a very positive hearing on this initiative in the Senate Finance Committee last year. What we learned at the hearing, among other things, is that the mentally ill who are homeless have very few people looking after their welfare. We heard compelling testimony from Lionel Aldridge, a former pro football player for the Green Bay Packers who became homeless after he developed schizophrenia. Had there been extensive outreach services available at the time, he probably would not have spent several years living on the streets.

My proposal today is more limited in scope than the original legislation, which mandated that States cover outreach and assessment services in their Medicaid Program. The provision included in this legislation would create a Medicaid demonstration project in one or two States to provide: First, mobile outreach teams for the homeless mentally ill; second, assessment-

referral centers, or safe havens, for those needing help to stay for up to 30 days to get food, shelter, a bath, clean clothes, medical treatment, psychiatric evaluation and treatment, assistance in applying for benefits, and most importantly: an individual long-term treatment plan; and finally, a presumptive eligibility period, of no longer than 60 days, when that treatment plan can begin to be implemented whether or not a Medicaid eligibility determination has yet been made.

Many of the mentally ill that we see on the streets are eligible for Medicaid, as well as other Federal, State, and local assistance, but have just not been able to gain access to help. Many lack the capacity to know that they need help. The Federal Task Force on Homelessness and Severe Mental Illness reported earlier this year in "Outcasts on Main Street" that the homeless mentally ill need to be helped through a comprehensive program. This task force, convened by Secretary Kemp of the Department of Housing and Urban Development and Secretary Sullivan of the Department of Health and Human Services, has recommended an approach nearly identical to that contained in the Medicaid provision I have sought to include in this package. The task force recommends an integrated program which would provide outreach, safe havens, and access to existing programs and recommends making Federal funds available to encourage such programs.

A 1986 study by the National Institute of Mental Health found that up to 56 percent of the shelter and street population in St. Louis is mentally ill. In response to this crisis, in the spring of 1987 my State of Missouri developed a national model for engaging the mentally ill homeless through outreach and case management. I have worked closely with the State of Missouri in developing the proposal which I have sought to include in the Medicare and Medicaid amendments of 1992 and I have confidence that it is a sound approach that should be tested with Federal support.

Mr. President, it has been said that our goodness is measured in how we treat the most frail and vulnerable among us. Clearly the mentally ill living on the streets deserve our attention and our help. The proposal before us today is a good proposal and I look forward to its enactment.

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

The amendment (No. 3319) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I now ask unanimous consent that title II of the energy bill entitled "Energy Revenue Provisions" be in order and be accepted.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

ENERGY BILL TAX TITLE

Mr. DOLE. Mr. President, this amendment contains provisions identical to those passed by the Senate on July 30 by a vote of 93 to 3. The provisions constituted the tax title to the energy bill, H.R. 776.

This amendment is not intended to reflect any view of the Senate with respect to the possible success of conferees to H.R. 776 to reach agreement. Rather, it recognizes the importance of the revenue provisions the Senate included with the energy bill as well as the short period of time remaining before the Congress is scheduled to adjourn for the year.

Mr. President, I would like to inform my colleagues that this amendment is supported by the chairman and ranking Republican member of the Senate Energy Committee, who have been working long, arduous hours to reach agreement on the other provisions of the energy bill.

The provisions of this amendment include employer provided transportation benefits, incentives for clean fuel vehicles, credit for electricity produced from renewable resources, the repeal of the alternate minimum tax for depletion and intangible drilling costs for independent producers and royalty owners, a permanent investment credit for solar, geothermal and ocean property, proportionality for alcohol fuels and the tax exempt financing for environmental enhancements of hydroelectric generating facilities.

This list reflects the sound, balanced approach taken by the Senate during consideration of the energy bill, as was indicated by the 93-to-3 vote for that bill. We should not let these provisions become hostage to other matters.

Mr. President, the adoption of this amendment will place the Senate squarely in favor of a national energy policy balanced between all fuel sources whether renewable or not, and balanced between environmental protection and national energy security.

Mr. President, I ask unanimous consent that the title XX, revenue provisions, be printed in the RECORD.

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

At the end of the Committee Amendment, insert:

TITLE XX—ENERGY REVENUE PROVISIONS

SEC. 20101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 20111. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $145 per month in the case of qualified parking.

"(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is

at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2) (A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

"(7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2)).''

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 20112. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only 80 percent of such subsidy shall be excluded from gross income under paragraph (1).

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—

"(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1994, with respect to property other than dwelling units. The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) DEFINITIONS.—For purposes of this subsection—

"(i) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(I) a recuperator,

"(II) a heat wheel,

"(III) a regenerator,

"(IV) a heat exchanger,

"(V) a waste heat boiler,

"(VI) a heat pipe,

"(VII) an automatic energy control system,

"(VIII) a turbulator,

"(IX) a preheater,

"(X) a combustible gas recovery system,

"(XI) an economizer,

"(XII) modifications to alumina electrolytic cells,

"(XIII) modifications to chlor-alkali electrolytic cells, or

"(XIV) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(ii) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(iii) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(B) SPECIAL RULES.—

"(i) THIRD-PARTY CONTRACTORS.—If, in connection with the purchase or installation of an energy conservation measure for a customer of a public utility, such public utility provides a subsidy to a person other than the customer, such subsidy shall be excludable under subsection (a) from the gross income of such other person to the extent such subsidy would be so excludable from the gross income of the customer.

"(ii) STATE-SPONSORED PROGRAMS.—A payment by a public utility to a customer for the use of a tax benefit granted to the customer by a State pursuant to a State-sponsored energy conservation program shall be excludable under subsection (a) from the gross income of the customer to the extent such payment would be so excludable if provided as a subsidy by the public utility.

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.

"Sec. 137. Cross reference to other Acts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 20113. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of—

"(1) in the case of any qualified clean-fuel vehicle property—

"(A) except as provided in subparagraph (B), the cost of the property, or

"(B) in the case of a vehicle described in subsection (c)(1)(B) which may be propelled by both a clean-burning fuel and any other fuel, an amount equal to the greater of—

"(i) $1,200, or

"(ii) the incremental cost of permitting the use of the clean-burning fuel, plus

"(2) the cost of any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a)(1) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver),

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(2) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a)(2) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(2).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

"(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(2)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(2),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 20114. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 20115. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a

taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 20116. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ADDITIONAL BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following tables for such calendar year:

"(i) INITIALLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.18
1993	0.10
1994	1.00
1995 and each calendar year thereafter	1.45.

"(ii) NEWLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.48
1993	1.08
1994	0.65
1995 and each calendar year thereafter	1.45."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the suceeding calendar year, respectively," after "such year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

SEC. 20117. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

"In the case of:	The applicable percentage is: For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5".

(b) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed):

"In the case of sales or use during:	The applicable percentage is:
1992	90.3
1993	60.7.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical devices, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after October 1, 1992.

SEC. 20118. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) OCEAN THERMAL ENERGY.—Subparagraph (A) of section 48(a)(3) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) equipment, placed in service after June 30, 1992, at either of 2 locations designated by the Secretary after consultation with the Secretary of Energy, which converts ocean thermal energy to usable energy,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 20119. NUCLEAR DECOMMISSIONING FUNDS.

(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 20120. ALCOHOL FUELS.

(a) REDUCED RATE OF TAX ON GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or sale. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry."

(2) CONFORMING AMENDMENTS.—Section 4081(c) is amended—

(A) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(B) by striking paragraph (4) and inserting the following new paragraph:

"(4) OTHERWISE APPLICABLE RATE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(B) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gaso-

line with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(B) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after September 30, 1992.

(b) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation, or

"(ii) 50 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF THE ALCOHOL FUELS CREDIT NOT USED AGAINST NORMAL LIMITATION.—For purposes of subparagraph (A), the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to such alcohol fuels credit, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph), reduced by the portion of the credit under subsection (a) which is not so attributable."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1992.

(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply to—

(i) any credit which was determined in a taxable year, or

(ii) any credit which is carried back to a taxable year,

beginning on or before September 30, 1992.

SEC. 20121. DETERMINATION OF INDEPENDENT PRODUCERS.

(a) RETAILERS.—

(1) IN GENERAL.—Section 613A(d)(2) is amended—

(A) by inserting "and sales of natural gas by a regulated public utility" after "users", and

(B) by inserting "and sales of products derived from natural gas by a regulated public utility" after "Defense".

(2) DEFINITION.—Section 613A(d)(2) is amended by adding at the end thereof the following new sentence "For purposes of the first sentence, the term 'regulated public utility' means a utility described in section 7701(a)(33) at least 50 percent of the gross income of which is derived from sources described in subparagraphs (A), (B), and (C) of section 7701(a)(33)."

(b) REFINERS.—Section 613A(d)(4) (relating to certain refiners excluded) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engage in the refining of crude oil, subsection (c) shall not apply to such taxpayer during any taxable year if the aggregate average daily refinery runs of the taxpayer and such persons for the taxable year exceed 50,000 barrels."

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

SEC. 20122. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities."

(b) DEFINITION AND SPECIAL RULES FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Section 142 is amended by adding at the end the following new subsection:

"(j) ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i)."

(2) FINANCED PROPERTY MUST BE GOVERNMENTALLY OWNED.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) EXCLUSION FROM VOLUME CAP.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle B—Other Revenue Provisions

SEC. 20131. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

SEC. 20132. MODIFICATIONS TO TAX ON INSURANCE POLICIES ISSUED BY FOREIGN INSURERS.

(a) INCREASE IN TAX ON CERTAIN REINSURANCE CONTRACTS.—Paragraph (3) of section 4371 (relating to imposition of tax) is amended to read as follows:

"(3) REINSURANCE.—

"(A) 4 cents on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1).

"(B) 1 cent on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (2)."

(b) RETENTION OF EXISTING TAX RATE IN CERTAIN CASES; LIMITATION ON TREATY BENEFITS.—

(1) Section 4371 is amended by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES.—

"(1) LOWER RATE ON CERTAIN REINSURANCE PREMIUMS.—Subparagraph (A) of subsection (a)(3) shall be applied with respect to any premium by substituting '1 cent' for '4 cents' if—

"(A) such premium is paid to a foreign insurer or reinsurer which is a resident of a foreign country,

"(B) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed by chapter 1, and

"(C) the risk with respect to which such premium is paid is not reinsured (directly or through a series of transactions) by a resident of another foreign country who does not meet the requirements of subparagraph (B).

"(2) APPLICATION OF RELIEF.—In applying paragraph (1) or any treaty, no person shall be relieved of the requirement to remit any tax imposed by this chapter on any premium unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which such premium was paid.

"(3) SECRETARIAL AUTHORITY.—

"(A) ENFORCEMENT PROCEDURES.—The Secretary may prescribe regulations setting forth such procedures as the Secretary may deem appropriate to ensure compliance with the requirements of paragraph (1).

"(B) WAIVER.—The Secretary may by regulations waive the requirements of paragraph (1)(C) in such circumstances and subject to such conditions as he may deem appropriate."

(2) Section 4371 is amended by striking "There is hereby" and inserting the following:

"(a) GENERAL RULE.—There is hereby".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date of the enactment of this Act but only to the extent allocable to reinsurance for periods after December 31, 1992.

SEC. 20133. TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX OFFSET.

Subsection (d) of section 4612 of title 26, United States Code, is amended by inserting the following new sentence before the last sentence of such subsection (d): "If a taxpayer who has paid into such Trans-Alaska Pipeline Liability Fund cannot use such credit on account of the operation of any provision of section 4611(f), then such credit may be taken to offset taxes otherwise due under section 11, in each year to the extent which would have been permissible had the Oil Spill Liability Trust Fund financing rate

imposed by section 4611 not lapsed pursuant to section 4611(f)(2) or expired pursuant to section 4611(f)(1): *Provided*, That no such credit taken under this sentence may be carried back to previous tax years.

Subtitle C—Health Care of Coal Miners

SEC. 20141. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 20142. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the production, transportation, and use of coal substantially affects interstate and foreign commerce and the national public interest; and

(2) in order to secure the stability of interstate commerce, it is necessary to modify the current private health care benefit plan structure for retirees in the coal industry to identify persons most responsible for plan liabilities in order to stabilize plan funding and allow for the provision of health care benefits to such retirees.

(b) STATEMENT OF POLICY.—It is the policy of this subtitle—

(1) to remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multiemployer benefit plans that provide health care benefits to retirees in the coal industry;

(2) to allow for sufficient operating assets for such plans; and

(3) to provide for the continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of such plans.

SEC. 20143. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. COAL INDUSTRY HEALTH BENEFITS.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A—Definitions of general applicability.

"SUBCHAPTER B—Combined benefit fund.

"SUBCHAPTER C—Health benefits of certain miners.

"SUBCHAPTER D—Other provisions.

"Subchapter A—Definitions of General Applicability

"Sec. 9701. Definitions of general applicability.

"SEC. 9701. DEFINITIONS OF GENERAL APPLICABILITY.

"(a) PLANS AND FUNDS.—For purposes of this chapter—

"(1) UMWA BENEFIT PLAN.—

"(A) IN GENERAL.—The term 'UMWA Benefit Plan' means a plan—

"(i) which is described in section 404(c), or a continuation thereof; and

"(ii) which provides health benefits to retirees and beneficiaries of the industry which maintained the 1950 UMWA Pension Plan.

"(B) 1950 UMWA BENEFIT PLAN.—The term '1950 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired before 1976.

"(C) 1974 UMWA BENEFIT PLAN.—The term '1974 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired on or after January 1, 1976.

"(2) 1950 UMWA PENSION PLAN.—The term '1950 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired before 1976.

"(3) 1974 UMWA PENSION PLAN.—The term '1974 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired in 1976 and thereafter.

"(4) 1992 UMWA BENEFIT PLAN.—The term '1992 UMWA Benefit Plan' means the plan referred to in section 9713A.

"(5) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America Combined Benefit Fund established under section 9702.

"(b) AGREEMENTS.—For purposes of this section—

"(1) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means—

"(A) the National Bituminous Coal Wage Agreement, or

"(B) any other agreement entered into between an employer in the coal industry and the United Mine Workers of America that required or requires one or both of the following:

"(i) the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan; or

"(ii) contributions to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or any predecessor thereof.

"(2) SETTLORS.—The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (referred to in this chapter as the 'BCOA').

"(3) NATIONAL BITUMINOUS COAL WAGE AGREEMENT.—The term 'National Bituminous Coal Wage Agreement' means a collective bargaining agreement negotiated by the BCOA and the United Mine Workers of America.

"(c) TERMS RELATING TO OPERATORS.—For purposes of this section—

"(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a person which is or was a signatory to a coal wage agreement.

"(2) RELATED PERSONS.—

"(A) IN GENERAL.—A person shall be considered to be a related person to a signatory operator if that person is—

"(i) a member of the controlled group of corporations (within the meaning of section 52(a)) which includes such signatory operator;

"(ii) a trade or business which is under common control (as determined under section 52(b)) with such signatory operator; or

"(iii) any other person who is identified as having a partnership interest or joint venture with a signatory operator in a business within the coal industry, but only if such business employed eligible beneficiaries, except that this clause shall not apply to a person whose only interest is as a limited partner.

A related person shall also include a successor in interest of any person described in clause (i), (ii), or (iii).

"(B) TIME FOR DETERMINATION.—The relationships described in clauses (i), (ii), and (iii) of subparagraph (A) shall be determined as of July 20, 1992, except that if, on July 20, 1992, a signatory operator is no longer in business, the relationships shall be determined as of the time immediately before such operator ceased to be in business.

"(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

"(A) a signatory operator which was a signatory to the 1988 National Bituminous Coal Wage Agreement,

"(B) an employer in the coal industry which was a signatory to an agreement containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 National Bituminous Coal Wage Agreement, or

"(C) an employer from which contributions were actually received after 1987 and before July 20, 1992, by the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

"(4) LAST SIGNATORY OPERATOR.—The term 'last signatory operator' means, with respect to a coal industry retiree, a signatory operator which was the most recent coal industry employer of such retiree.

"(5) ASSIGNED OPERATOR.—The term 'assigned operator' means, with respect to an eligible beneficiary defined in section 9703(f), the signatory operator to which liability under subchapter B with respect to the beneficiary is assigned under section 9706.

"(6) OPERATORS OF DEPENDENT BENEFICIARIES.—For purposes of this chapter, the signatory operator, last signatory operator, or assigned operator of any eligible beneficiary under this chapter who is a coal industry retiree shall be considered to be the signatory operator, last signatory operator, or assigned operator with respect to any other individual who is an eligible beneficiary under this chapter by reason of a relationship to the retiree.

"(7) BUSINESS.—For purposes of this chapter, a person shall be considered to be in business if such person conducts or derives revenue from any business activity, whether or not in the coal industry.

"(d) ENACTMENT DATE.—For purposes of this chapter, the term 'enactment date' means the date of the enactment of this chapter.

"Subchapter B—Combined Benefit Fund

"Part I—ESTABLISHMENT AND BENEFITS

"Part II—FINANCING

"Part III—ENFORCEMENT

"Part IV—OTHER PROVISIONS

"PART I—ESTABLISHMENT AND BENEFITS

"Sec. 9702. Establishment of the United Mine Workers of America Combined Benefit Fund.

"Sec. 9703. Plan benefits.

"SEC. 9702. ESTABLISHMENT OF THE UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—As soon as practicable (but not later than 60 days) after the enactment date, the persons described in subsection (b) shall designate the individuals to serve as trustees. Such trustees shall create a new private plan to be known as the United Mine Workers of America Combined Benefit Fund.

"(2) MERGER OF RETIREE BENEFIT PLANS.—As of February 1, 1993, the settlors of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall cause such plans to be merged into the Combined Fund, and such merger shall not be treated as an employer withdrawal for purposes of any 1988 coal wage agreement.

"(3) TREATMENT OF PLAN.—The Combined Fund shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(4) TAX TREATMENT.—For purposes of this title, the Combined Fund and any related trust shall be treated as an organization exempt from tax under section 501(a).

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

"(A) one individual who represents employers in the coal mining industry shall be designated by the BCOA;

"(B) one individual shall be designated by the three employers, other than 1988 agreement operators, who have been assigned the greatest number of eligible beneficiaries under section 9706;

"(C) two individuals designated by the United Mine Workers of America; and

"(D) three persons selected by the persons appointed under subparagraphs (A), (B), and (C).

"(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

"(3) SPECIAL RULES.—

"(A) BCOA.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.

"(B) FORMER SIGNATORIES.—The initial trustee under paragraph (1)(B) shall be designated by the 3 employers, other than 1988 agreement operators, which the records of the 1950 UMWA Benefit Plan and 1974 UMWA Benefit Plan indicate have the greatest number of eligible beneficiaries as of the enactment date, and such trustee and any successor shall serve until November 1, 1993.

"(c) PLAN YEAR.—The first plan year of the Combined Fund shall begin February 1, 1993, and end September 30, 1993. Each succeeding plan year shall begin on October 1 of each calendar year.

"SEC. 9703. PLAN BENEFITS.

"(a) IN GENERAL.—Each eligible beneficiary of the Combined Fund shall receive—

"(1) health benefits described in subsection (b), and

"(2) in the case of an eligible beneficiary described in subsection (f)(1), death benefits coverage described in subsection (c).

"(b) HEALTH BENEFITS.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide health care benefits to each eligible beneficiary by enrolling the beneficiary in a health care services plan which undertakes to provide such benefits on a prepaid risk basis. The trustees shall utilize all available plan resources to ensure that, consistent with paragraph (2), coverage under the managed care system shall to the maximum extent feasible be substantially the same as (and subject to the same limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) PLAN PAYMENT RATES.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall negotiate payment rates with the health care services plans described in paragraph (1) for each plan year which are in amounts which—

"(i) vary as necessary to ensure that beneficiaries in different geographic areas have access to a uniform level of health benefits; and

"(ii) result in aggregate payments for such plan year from the Combined Fund which do not exceed the total premium payments required to be paid to the Combined Fund under section 9704(a) for the plan year, adjusted as provided in subparagraphs (B) and (C).

"(B) REDUCTIONS.—The amount determined under subparagraph (A)(ii) for any plan year shall be reduced—

"(i) by the aggregate death benefit premiums determined under section 9704(c) for the plan year, and

"(ii) by the amount reserved for plan administration under subsection (d).

"(C) INCREASES.—The amount determined under subparagraph (A)(ii) shall be increased—

"(i) by any reduction in the total premium payments required to be paid under section 9704(a) by reason of transfers described in section 9705,

"(ii) by any carryover to the plan year from any preceding plan year which—

"(I) is derived from amounts described in section 9704(e)(3)(B)(i), and

"(II) the trustees elect to use to pay benefits for the current plan year, and

"(iii) any interest earned by the Combined Fund which the trustees elect to use to pay benefits for the current plan year.

"(3) QUALIFIED PROVIDERS.—The trustees of the Combined Fund shall not enter into an agreement under paragraph (1) with any provider of services which is of a type which is required to be certified by the Secretary of Health and Human Services when providing services under title XVIII of the Social Security Act unless the provider is so certified.

"(4) EFFECTIVE DATE.—Benefits shall be provided under paragraph (1) on and after February 1, 1993.

"(c) DEATH BENEFITS COVERAGE.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide death benefits coverage to each eligible beneficiary described in subsection (f)(1) which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable, on July 20, 1992. Such coverage shall be provided on and after February 1, 1993.

"(2) TERMINATION OF COVERAGE.—The 1950 UMWA Pension Plan and the 1974 UMWA Pension Plan shall each be amended to provide that death benefits coverage shall not be provided to eligible beneficiaries on and after February 1, 1993. This paragraph shall not prohibit such plans from subsequently providing death benefits not described in paragraph (1).

"(d) RESERVES FOR ADMINISTRATION.—The trustees of the Combined Fund may reserve for each plan year, for use in payment of the administrative costs of the Combined Fund, an amount not to exceed 5 percent of the premiums to be paid to the Combined Fund under section 9704(a) during the plan year.

"(e) LIMITATION ON ENROLLMENT.—The Combined Fund shall not enroll any individual who is not receiving benefits under the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of July 20, 1992.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this subchapter, the term 'eligible beneficiary' means an individual who—

"(1) is a coal industry retiree who, on July 20, 1992, was eligible to receive, and receiving, benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or

"(2) on such date was eligible to receive, and receiving, benefits in either such plan by reason of a relationship to such retiree.

"PART II—FINANCING

"Sec. 9704. Liability of assigned operators.

"Sec. 9705. Transfers.

"Sec. 9706. Assignment of eligible beneficiaries.

"SEC. 9704. LIABILITY OF ASSIGNED OPERATORS.

"(a) ANNUAL PREMIUMS.—Each assigned operator shall pay to the Combined Fund for each plan year beginning on or after February 1, 1993, an annual premium equal to the sum of the following three premiums—

"(1) the health benefit premium determined under subsection (b) for such plan year, plus

"(2) the death benefit premium determined under subsection (c) for such plan year, plus

"(3) the unassigned beneficiaries premium determined under subsection (d) for such plan year.

Any related person with respect to an assigned operator shall be jointly and severally liable for any premium required to be paid by such operator.

"(b) HEALTH BENEFIT PREMIUM.—For purposes of this chapter—

"(1) IN GENERAL.—The health benefit premium for any plan year for any assigned operator shall be an amount equal to the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries assigned to such operator under section 9706.

"(2) PER BENEFICIARY PREMIUM.—The Secretary of Health and Human Services shall calculate a per beneficiary premium for each plan year beginning on or after February 1, 1993, which is equal to the sum of—

"(A) the amount determined by dividing—

"(i) the aggregate amount of payments from the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for health benefits (less reimbursements but including administrative costs) for the plan year beginning July 1, 1991, for all individuals covered under such plans for such plan year, by

"(ii) the number of such individuals, plus

"(B) the amount determined under subparagraph (A) multiplied by the percentage (if any) by which the medical component of the Consumer Price Index for the calendar year in which the plan year begins exceeds such component for 1992.

"(3) ADJUSTMENTS FOR MEDICARE REDUCTIONS.—If, by reason of a reduction in benefits under title XVIII of the Social Security Act, the level of health benefits under the Combined Fund would be reduced, the trustees of the Combined Fund shall increase the per beneficiary premium for the plan year in which the reduction occurs and each subsequent plan year by the amount necessary to maintain the level of health benefits which would have been provided without such reduction.

"(c) DEATH BENEFIT PREMIUM.—The death benefit premium for any plan year for any assigned operator shall be equal to the applicable percentage of the amount, actuarially determined, which the Combined Fund will be required to pay during the plan year for death benefits coverage described in section 9703(c).

"(d) UNASSIGNED BENEFICIARIES PREMIUM.—The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

"(e) PREMIUM ACCOUNTS; ADJUSTMENTS.—

"(1) ACCOUNTS.—The trustees of the Combined Fund shall establish and maintain 3 separate accounts for each of the premiums described in subsections (b), (c), and (d). Such accounts shall be credited with the premiums received and debited with expenditures allocable to such premiums.

"(2) ALLOCATIONS.—

"(A) ADMINISTRATIVE EXPENSES.—Administrative costs for any plan year shall be allocated to premium accounts under paragraph (1) on the basis of expenditures (other than administrative costs) from such accounts during the preceding plan year.

"(B) INTEREST.—Interest shall be allocated to the account established for health benefit premiums.

"(3) SHORTFALLS AND SURPLUSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if, for any plan year, there is a shortfall or surplus in any premium account, the premium for the following plan year for each assigned operator shall be proportionately reduced or increased, whichever is applicable, by the amount of such shortfall or surplus.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any surplus in the health benefit premium account or the unassigned beneficiaries premium account which is attributable to—

"(i) the excess of the premiums credited to such account for a plan year over the benefits (and administrative costs) debited to such account for the plan year, but such excess shall only be available for purposes of the carryover described in section 9703(b)(2)(C)(ii) (relating to carryovers of premiums not used to provide benefits), or

"(ii) interest credited under paragraph (2)(B) for the plan year or any preceding plan year.

"(C) NO AUTHORITY FOR INCREASED PAYMENTS.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits for any plan year in excess of the limit under section 9703(b)(2).

"(f) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means, with respect to any assigned operator, the percentage determined by dividing the number of eligible beneficiaries assigned under section 9706 to such operator by the total number of eligible beneficiaries assigned under section 9706 to all such operators (determined on the basis of assignments as of October 1, 1993).

"(2) ANNUAL ADJUSTMENTS.—In the case of any plan year beginning on or after October 1, 1994, the applicable percentage for any assigned operator shall be redetermined under paragraph (1) by making the following changes to the assignments as of October 1, 1993:

"(A) Such assignments shall be modified to reflect any changes during the period beginning October 1, 1993, and ending on the last day of the preceding plan year pursuant to the appeals process under section 9706(f).

"(B) The total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries of assigned operators which (and all related persons with respect to which) had ceased business (within the meaning of section 9701(c)(6)) during the period described in subparagraph (A).

"(g) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—The annual premium under subsection (a) for any plan year shall be payable in 12 equal monthly installments, due on the twenty-fifth day of each calendar month in the plan year. In the case of the plan year beginning February 1, 1993, the annual premium under subsection (a) shall be added to such premium for the plan year beginning October 1, 1993.

"(2) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(h) INFORMATION.—The trustees of the Combined Fund shall, not later than 60 days after the enactment date, furnish to the Secretary of Health and Human Services information as to the benefits and covered beneficiaries under the fund, and such other information as the Secretary may require to compute any premium under this section.

"(i) TRANSITION RULES.—

"(1) 1988 AGREEMENT OPERATORS.—

"(A) 1ST YEAR COSTS.—During the plan year of the Combined Fund beginning February 1, 1993, the 1988 agreement operators shall make contributions to the Combined Fund in amounts necessary to pay benefits and administrative costs of the Combined Fund incurred during such year, reduced by the amount transferred to the Combined Fund under section 9705(a) on February 1, 1993.

"(B) DEFICITS FROM MERGED PLANS.—During the period beginning February 1, 1993, and ending September 30, 1994, the 1988 agreement operators shall make contributions to the Combined Fund as are necessary to pay off the expenses accrued (and remaining unpaid) by the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, reduced by the assets of such plans as of such date.

"(C) FAILURE.—If any 1988 agreement operator fails to meet any obligation under this paragraph, any contributions of such operator to the Combined Fund or any other plan described in section 404(c) shall not be deductible under this title until such time as the failure is corrected.

"(D) PREMIUM REDUCTIONS.—

"(i) 1ST YEAR PAYMENTS.—In the case of a 1988 agreement operator making contributions under subparagraph (A), the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993.

"(ii) DEFICIT PAYMENTS.—In the case a 1988 agreement operator making contributions under subparagraph (B), the premium of such operator under subsection (a) shall be reduced by the amounts which are paid to the Combined Fund by reason of claims arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims based on the 'evergreen clause' found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan, and which are allocated to such operator under subparagraph (E).

"(iii) LIMITATION.—Clause (ii) shall not apply to the extent the amounts paid exceed the contributions.

"(iv) PLAN YEARS.—Premiums under subsection (a) shall be reduced for the first plan year for which amounts described in clause (i) or (ii) are available and for any succeeding plan year until such amounts are exhausted.

"(E) ALLOCATIONS OF CONTRIBUTIONS AND REFUNDS.—Contributions under subparagraphs (A) and (B), and premium reductions under subparagraph (D)(ii), shall be made ratably on the basis of aggregate contributions made by such operators under the applicable 1988 coal wage agreements as of January 31, 1993.

"(2) 1ST PLAN YEAR.—In the case of the plan year of the Combined Fund beginning February 1, 1993—

"(A) the premiums under subsections (a)(1) and (a)(3) shall be 67 percent of such premiums without regard to this paragraph, and

"(B) the premiums under subsection (a) shall be paid as provided in subsection (g).

"(3) STARTUP COSTS.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall pay the costs of the Combined Fund incurred before February 1, 1993. For purposes of this section, such costs shall be treated as administrative expenses incurred for the plan year beginning February 1, 1993.

"SEC. 9705. TRANSFERS.

"(a) TRANSFER OF ASSETS FROM 1950 UMWA PENSION PLAN.—

"(1) IN GENERAL.—From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund—

"(A) $70,000,000 on February 1, 1993,

"(B) $70,000,000 on October 1, 1993, and

"(C) $70,000,000 on October 1, 1994.

"(2) RESERVATION.—Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate $210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

"(3) USE OF FUNDS.—Amounts transferred to the Combined Fund under paragraph (1) shall—

"(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

"(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

"(4) TAX TREATMENT; VALIDITY OF TRANSFER.—

"(A) NO DEDUCTION.—No deduction shall be allowed under this title with respect to any transfer pursuant to paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

"(B) OTHER TAX PROVISIONS.—Any transfer pursuant to paragraph (1)—

"(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

"(5) TREATMENT OF TRANSFER.—Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

"(b) TRANSFERS FROM ABANDONED MINE RECLAMATION FUND.—

"(1) IN GENERAL.—The Combined Fund shall include any amount transferred to the Fund under section 402(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).

"(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.

"SEC. 9706. ASSIGNMENT OF ELIGIBLE BENEFICIARIES.

"(a) IN GENERAL.—For purposes of this chapter, the Secretary of Health and Human Services shall, before October 1, 1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

"(1) First, to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

"(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

"(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal industry retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

"(b) RULES RELATING TO EMPLOYMENT AND REASSIGNMENT UPON PURCHASE.—For purposes of subsection (a)—

"(1) AGGREGATION RULES.—

"(A) RELATED PERSON.—Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

"(B) CERTAIN EMPLOYMENT DISREGARDED.—Employment with—

"(i) a person which is (and all related persons with respect to which are) no longer in business, or

"(ii) a person during a period during which such person was not a signatory to a coal wage agreement,

shall not be taken into account.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

"(c) IDENTIFICATION OF ELIGIBLE BENEFICIARIES.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Secretary of Health and Human Services a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

"(d) COOPERATION BY OTHER AGENCIES AND PERSONS.—

"(1) COOPERATION.—The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Secretary of Health and Human Services in providing information which will enable the Secretary to carry out his responsibilities under this section.

"(2) PROVIDING OF INFORMATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, including section 6103, the head of any other agency, department, or instrumentality shall, upon receiving a written request from the Secretary of Health and Human Services in connection with this section, cause a search to be made of the files and records maintained by such agency, department, or instrumentality with a view to determining whether the information requested is contained in such files or records. The Secretary shall be advised whether the search disclosed the information requested, and, if so, such information shall be promptly transmitted to the Secretary, except that if the disclosure of any requested information would contravene national policy or security interests of the United States, or the confidentiality of census data, the information shall not be transmitted and the Secretary shall be so advised.

"(B) LIMITATION.—Any information provided under subparagraph (A) shall be limited to information necessary for the Secretary to carry out his duties under this section.

"(3) TRUSTEES.—The trustees of the Combined Fund, the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, the 1950 UMWA Pension Plan, and the 1974 UMWA Pension Plan shall fully and promptly cooperate with the Secretary in furnishing, or assisting the Secretary to obtain, any information the Secretary needs to carry out the Secretary's responsibilities under this section.

"(e) NOTICE BY SECRETARY.—

"(1) NOTICE TO FUND.—The Secretary of Health and Human Services shall advise the trustees of the Combined Fund of the name of each person identified under this section as an assigned operator, and the names and social security account numbers of eligible beneficiaries with respect to whom he is identified.

"(2) OTHER NOTICE.—The Secretary of Health and Human Services shall notify each assigned operator of the names and social security account numbers of eligible beneficiaries who have been assigned to such person under this section and a brief summary of the facts related to the basis for such assignments.

"(f) RECONSIDERATION BY SECRETARY.—

"(1) IN GENERAL.—Any assigned operator receiving a notice under subsection (e)(2) with respect to an eligible beneficiary may, within 30 days of receipt of such notice, request from the Secretary of Health and Human Services detailed information as to the work history of the beneficiary and the basis of the assignment.

"(2) REVIEW.—An assigned operator may, within 30 days of receipt of the information under paragraph (1), request review of the assignment. The Secretary of Health and Human Services shall conduct such review if the Secretary finds the operator provided evidence with the request constituting a prima facie case of error.

"(3) RESULTS OF REVIEW.—

"(A) ERROR.—If the Secretary of Health and Human Services determines under a review under paragraph (2) that an assignment was in error—

"(i) the Secretary shall notify the assigned operator and the trustees of the Combined Fund and the trustees shall reduce the premiums of the operator under section 9704 by (or if there are no such premiums, repay) all premiums paid under section 9704 with respect to the eligible beneficiary, and

"(ii) the Secretary shall review the beneficiary's record for reassignment under subsection (a).

"(B) NO ERROR.—If the Secretary of Health and Human Services determines under a review conducted under paragraph (2) that no error occurred, the Secretary shall notify the assigned operator.

"(4) DETERMINATIONS.—Any determination by the Secretary of Health and Human Services under paragraph (2) or (3) shall be final.

"(5) PAYMENT PENDING REVIEW.—An assigned operator shall pay the premiums under section 9704 pending review by the Secretary of Health and Human Services or by a court under this subsection.

"(6) PRIVATE ACTIONS.—Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Secretary.

"(g) CONFIDENTIALITY OF INFORMATION.—Any person to which information is provided by the Secretary of Health and Human Services under this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

"PART III—ENFORCEMENT

"Sec. 9707. Failure to pay premium.

"SEC. 9707. FAILURE TO PAY PREMIUM.

"(a) GENERAL RULE.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

"(b) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be $100 per day in the noncompliance period with respect to any such failure.

"(c) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure to pay any premium or installment thereof, the period—

"(1) beginning on the due date for such premium or installment, and

"(2) ending on the date of payment of such premium or installment.

"(d) LIMITATIONS ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew, or exercising reasonable diligence, would have known, that such failure existed.

"(2) CORRECTIONS.—No penalty shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER.—In the case of a failure that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed by subsection (a) for failures to the extent that the Secretary determines, in his sole discretion, that the payment of such penalty would be excessive relative to the failure involved.

"(e) LIABILITY FOR PENALTY.—The person failing to meet the requirements of section 9704 shall be liable for the penalty imposed by subsection (a).

"(f) TREATMENT.—For purposes of this title, the penalty imposed by this section shall be treated in the same manner as the tax imposed by section 4980B.

"PART IV—OTHER PROVISIONS

"Sec. 9708. Effect on pending claims or obligations.

"SEC. 9708. EFFECT ON PENDING CLAIMS OR OBLIGATIONS.

"All liability for contributions to the Combined Fund that arises on and after February 1, 1993, shall be determined exclusively under this chapter, including all liability for contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for coal production on and after February 1, 1993. However, nothing in this chapter is intended to have any effect on any claims or obligations arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims or obligations based on the 'evergreen' clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

"Subchapter C—Health Benefits of Certain Miners

"Part I—Individual employer plans

"Part II—1992 UMWA benefit plan

"PART I—INDIVIDUAL EMPLOYER PLANS

"Sec. 9711. Continued obligations of individual employer plans.

"SEC. 9711. CONTINUED OBLIGATIONS OF INDIVIDUAL EMPLOYER PLANS.

"(a) COVERAGE OF CURRENT RECIPIENTS.—The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual's eligible beneficiaries which is substantially the same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

"(b) COVERAGE OF ELIGIBLE RECIPIENTS.—

"(1) IN GENERAL.—The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual's eligible beneficiaries which is described in paragraph (2). This paragraph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

"(2) COVERAGE.—Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(d) MANAGED CARE AND COST CONTAINMENT.—The last signatory operator shall not be treated as failing to meet the requirements of subsection (a) or (b) if benefits are provided to eligible beneficiaries under managed care and cost containment rules and procedures described in section 9712(c) or agreed to by the last signatory operator and the United Mine Workers of America.

"(e) TREATMENT OF NONCOVERED EMPLOYEES.—The existence, level, and duration of benefits provided to former employees of a last signatory operator (and their eligible beneficiaries) who are not otherwise covered by this chapter and who are (or were) covered by a coal wage agreement shall only be determined by, and shall be subject to, collective bargaining, lawful unilateral action, or other applicable law.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means any individual who is eligible for health benefits under a plan described in subsection (a) or (b) by reason of the individual's relationship with the retiree described in such subsection (or to an individual who, based on service and employment history at the time of death, would have been so described but for such death).

"(g) RULES APPLICABLE TO THIS PART AND PART II.—For purposes of this part and part II—

"(1) SUCCESSOR.—The term 'last signatory operator' shall include a successor in interest of such operator.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of a last signatory operator after the enactment date, the last signatory operator may transfer any liability of such operator under this chapter with respect to an eligible beneficiary to such successor, and such successor shall be treated as the last signatory operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the last signatory operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. A last signatory operator shall notify the trustees of the 1992 UMWA Benefit Plan of any transfer described in this paragraph.

"PART II—1992 UMWA BENEFIT PLAN

"Sec. 9712. Establishment and coverage of 1992 UMWA Benefit Plan.

"SEC. 9712. ESTABLISHMENT AND COVERAGE OF 1992 UMWA BENEFIT PLAN.

"(a) CREATION OF PLAN.—

"(1) IN GENERAL.—As soon as practicable after the enactment date, the settlors shall create a separate private plan which shall be known as the United Mine Workers of America 1992 Benefit Plan. For purposes of this title, the 1992 UMWA Benefit Plan shall be treated as an organization exempt from taxation under section 501(a). The settlors shall be responsible for designing the structure, administration and terms of the 1992 UMWA Benefit Plan, and for appointment and removal of the members of the board of trustees. The board of trustees shall initially consist of five members and shall thereafter be the number set by the settlors.

"(2) TREATMENT OF PLAN.—The 1992 UMWA Benefit Plan shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(b) COVERAGE REQUIREMENT.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall only provide health benefits coverage to any eligible beneficiary who is not eligible for benefits under the Combined Fund and shall not provide such coverage to any other individual.

"(2) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means an individual who—

"(A) but for the enactment of this chapter, would be eligible to receive benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, based upon age and service earned as of February 1, 1993; or

"(B) with respect to whom coverage is required to be provided under section 9711, but who does not receive such coverage from the applicable last signatory operator or any related person,

and any individual who is eligible for benefits by reason of a relationship to an individual described in subparagraph (A) or (B). In no event shall the 1992 UMWA Benefit Plan provide health benefits coverage to any eligible beneficiary who is a coal industry retiree who retired from the coal industry after September 30, 1994, or any beneficiary of such individual.

"(c) HEALTH BENEFITS.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall provide health care benefits coverage to each eligible beneficiary which is substantially the same as (and subject to all the limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) MANAGED CARE.—The 1992 UMWA Benefit Plan shall develop managed care and cost containment rules which shall be applicable to the payment of benefits under this subsection. Application of such rules shall not cause the plan to be treated as failing to meet the requirements of this subsection. Such rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules may include, but are not limited to, elements described in paragraph (3).

"(3) MAJOR ELEMENTS OF RULES.—Elements described in this paragraph are—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use,

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status with the amount of the potential discount varying by geographic region,

"(C) limiting benefit payments to physicians to the allowable charge under title XVIII of the Social Security Act, while protecting beneficiaries from balance billing by providers,

"(D) utilizing, in the claims payment function 'appropriateness of service' protocols under title XVIII of the Social Security Act if more stringent,

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries,

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network, and

"(G) utilizing a managed care network provider system, as practiced in the health care industry, at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this subsection.

"(4) LAST SIGNATORY OPERATORS.—The board of trustees of the 1992 UMWA Benefit Plan shall permit any last signatory operator required to maintain an individual employer plan under section 9711 to utilize the managed care and cost containment rules and programs developed under this subsection if the operator elects to do so.

"(5) STANDARDS OF QUALITY.—Any managed care system or cost containment adopted by the board of trustees of the 1992 UMWA Benefit Plan or by a last signatory operator may not be implemented unless it is approved by, and meets the standards of quality adopted by, a medical peer review panel, which has been established—

"(A) by the settlors, or

"(B) by the United Mine Workers of America and a last signatory operator or group of operators.

Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending on the nature of the medical need.

"(d) GUARANTEE OF BENEFITS.—

"(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c), in accordance with contribution requirements established in the 1992 UMWA Benefit Plan. Such contribution requirements, which shall be applied uniformly to each 1988 last signatory operator, on the basis of the number of eligible and potentially eligible beneficiaries attributable to each operator, shall include:

"(A) the payment of an annual prefunding premium for all eligible and potentially eligible beneficiaries attributable to a 1988 last signatory operator,

"(B) the payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan, and

"(C) the provision of security (in the form of a bond, letter of credit or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator. If a 1988 last signatory operator is unable to provide the security required, the 1992 UMWA Benefit Plan shall require the operator to pay an annual prefunding premium that is greater than the premium otherwise applicable.

"(2) ADJUSTMENTS.—The 1992 UMWA Benefit Plan shall provide for—

"(A) annual adjustments of the per beneficiary premium to cover changes in the cost of providing benefits to eligible beneficiaries, and

"(B) adjustments as necessary to the annual prefunding premium to reflect changes in the cost of providing benefits to eligible beneficiaries for whom per beneficiary premiums are not paid.

"(3) ADDITIONAL LIABILITY.—Any last signatory operator who is not a 1988 last signatory operator shall pay the monthly per beneficiary premium under paragraph (1)(B) for each eligible beneficiary described in such paragraph attributable to that operator.

"(4) JOINT AND SEVERAL LIABILITY.—A 1988 last signatory operator or last signatory operator described in paragraph (3), and any related person to any such operator, shall be jointly and severally liable with such operator for any amount required to be paid by such operator under this section.

"(5) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(6) 1988 LAST SIGNATORY OPERATOR.—For purposes of this section, the term '1988 last signatory operator' means a last signatory operator which is a 1988 agreement operator.

"Subchapter D—Other Provisions

"Sec. 9721. Civil enforcement.

"Sec. 9722. Sham transactions.

"SEC. 9721. CIVIL ENFORCEMENT.

"The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.

"SEC. 9722. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction."

(b) AMENDMENTS TO SURFACE MINING ACT.—

(1) EXTENSION OF FEE PROGRAM.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 1995" and inserting "September 30, 2004".

(2) TRANSFER TO FUND.—Section 402 of such Act (30 U.S.C. 1232) is amended by adding at the end the following new subsection:

"(h) TRANSFER OF FUNDS TO COMBINED FUND.—(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

"(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of—

"(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(B) the amount by which the amount described in subparagraph (A) is less than $70,000,000.

"(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(3) CONFORMING AMENDMENTS.—(A) Section 401(c) of such Act (30 U.S.C. 1231(c)) is amended by striking "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by adding after paragraph (11) the following new paragraph:

"(12) for the purpose described in section 402(h); and".

(B) Section 402(g)(1) of such Act (30 U.S.C. 1232(g)) is amended by striking "Moneys" and inserting "Except as provided in subsection (h), moneys".

Subtitle D—Miscellaneous

SEC. 20151. REMOVAL OF VOLUME CAP FOR CERTAIN HIGH-SPEED RAIL FACILITY BONDS.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exception for certain bonds) is amended by inserting ", other than any such bond described in subsection (h)(1)" after "rail facilities".

(b) CONFORMING AMENDMENT.—Subsection (h) of section 146 (relating to exception for government-owned solid waste disposal facilities) is amended—

(1) by striking "section 142(a)(6)" in paragraph (1) and inserting "paragraph (6) or (11) of section 142(a)", and

(2) by inserting "AND HIGH-SPEED RAIL" before "FACILITIES" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

SEC. 20152. DEDUCTION FOR MOVING EXPENSE.

(a) IN GENERAL.—Paragraph (1) of section 217(c) of the Internal Revenue Code of 1986 (relating to conditions for allowance) is amended by striking "35 miles" each place it appears and inserting "55 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after January 1, 1993.

SEC. 20153. AMENDMENT TO SECTION 781(a)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

In section 781(a)(1)(B), the phrase "produced in the foreign country with respect to which such order or finding applies" is deleted and the following new text is inserted in lieu thereof: "supplied by an exporter or producer in the foreign country with respect to which the order or finding applies, from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer, or from parts or components supplied by any party in any foreign country on behalf of such an exporter or producer".

SEC. 20154. AMENDMENT TO SECTION 781(a)(2)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(B)).

In section 781(a)(2)(B), the phrase "produced in the foreign country with respect to which such order or finding described in paragraph (1) applies" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. 20155. AMENDMENT TO SECTION 781(a)(2)(C) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(C)).

In section 781(a)(2)(C), the phrase "produced in such foreign country" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. 20156. AMENDMENT TO SECTION 781(b)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(b)(1)(B)).

The following phrase is inserted after the language of section 781(b)(1)(B)(ii): "or (iii) is supplied by the exporter or producer in any foreign country with respect to which such order or finding applies, or from suppliers that have historically supplied the parts or components to that exporter or producer,".

TITLE XX—REVENUE PROVISIONS

Sec. 20101. Amendment of 1986 Code.

SUBTITLE A—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

Sec. 20111. Treatment of employer-provided transportation benefits.
Sec. 20112. Exclusion of energy conservation subsidies provided by regulated public utilities.
Sec. 20113. Treatment of clean-fuel vehicles.
Sec. 20114. Credit for electricity produced from certain renewable sources.
Sec. 20115. Repeal of minimum tax preferences for depletion and intangible drilling costs of independent oil and gas producers and royalty owners.
Sec. 20116. Increased base tax rate on ozone-depleting chemicals.
Sec. 20117. Treatment of certain ozone depleting chemicals.
Sec. 20118. Permanent extension of energy investment credit for solar, geothermal, and ocean property.
Sec. 20119. Nuclear decommissioning funds.
Sec. 20120. Alcohol fuels.
Sec. 20121. Determination of independent producers.
Sec. 20122. Tax-exempt of financing for environmental enhancements of hydroelectric generating facilities.

Subtitle B—Other Revenue Provisions

Sec. 20131. Elimination of deduction for club membership fees.
Sec. 20132. Modifications to tax on insurance policies issued by foreign insurers.
Sec. 20133. Trans-Alaska pipeline liability fund income tax offset.

Subtitle C—Health Care of Coal Miners

Sec. 20141. Short title.
Sec. 20142. Findings and declaration of policy.
Sec. 20143. Coal industry health benefits program.

Subtitle D—Miscellaneous

Sec. 20151. Removal of volume cap for certain high-speed rail facility bonds.
Sec. 20152. Deduction for moving expense.
Sec. 20153. Amendment to section 781(a)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)(1)(B).
Sec. 20154. Amendment to section 781(a)(2)(B) of the Tariff Act of 1930 (19 1677j(a)(2)(B).
Sec. 20155. Amendment to section 781(a)(2)(C) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)(2)(C).
Sec. 20156. Amendment to section 781(b)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1677j(b)(1)(B).

The PRESIDING OFFICER. Without objection, the first degree amendment, as amended, is agreed to.

So the amendment (No. 3318), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, there are many meritorious provisions in this bill which make it hard to vote against it.

For starters, the Medicaid and Medicare provisions that we were able to add are critical to physicians, hospitals, and others, particularly in rural areas.

We must repeal the luxury tax—before we sink the remaining few boat builders and before we crash the aircraft industry. The bill also repeals the luxury tax on jewelry and furs. It does not repeal the tax on autos. Personally, I would prefer to see a complete repeal and maybe we can work that out in conference.

We must help our critical areas through urban, rural, and Indian enterprise zones.

Many are relying on the extension of the expiring tax provisions.

And many are awaiting economic growth incentives, particularly the first-time home buyers tax credit and the modifications to the passive loss rules.

But there are at least two provisions that are unacceptable to the President. As I talked about last week, PEP and Pease are no more than a hidden tax rate increase.

As the Republican leader, with my vote I am expressing the views of the President. At least on these two provisions, the President has no choice but to veto the bill.

I cast my vote as a message to the conferees. If we don't fix this bill in conference, there will be no luxury tax repeal, there will be no enterprise zones, no extenders, and no real estate incentives.

I urge my colleagues to call upon the conferees to send a bill to the President that he will be able to sign.

MANAGED CARE AND MEDICAID

Mr. DURENBERGER. Mr. President, over the years health maintenance organizations and other forms of managed care have demonstrated their ability to deliver quality care at reasonable costs. Across the country nearly 600 HMO's have 34 million members, including almost one-third of the California population.

Yet managed care has yet to reach its full potential among Medicaid enrollees. The reason is that State Medicaid programs run into a series of Federal roadblocks when they try to establish managed-care programs. The biggest barrier is the need to receive waivers, a frustrating, time-consuming process. The Minnesota Medicaid program, for example, has used managed care for 20 years, yet needs no less than an act of Congress to continue its program past July 1996.

Minnesota's program demonstrates the benefits of managed care for Medicaid enrollees. It now serves 70,000 Medicaid clients, particularly in the Twin Cities and in Itasca County in northern Minnesota. To assure quality there's annual quality audits, member satisfaction surveys, State standards on access, random reviews of medical records, and many other provisions.

Clients need not suffer the stigma of Medicaid, since their plan identification is the same as that of other enrollees. The plans distribute pamphlets, using plain English, on how to use their services. And they innovate: a case management program for chemically dependent clients, community-based long-term care for enrollees who otherwise would be in a nursing home, a system where a nurse calls clients the day after a visit to ask if they have carried out their treatment plan, free transportation for those who need it.

Mr. President, not one of the points I have just made is true of fee-for-service providers. Though individual physicians, hospitals, and other providers may offer excellent care, the fee-for-service system is one in which there are no quality checks on providers, no coordination of care, and no financial incentives to innovate.

Last November Senator Moynihan and I introduced S. 2077, the Medicaid Managed Care Improvement Act, a long overdue effort to stop discouraging Medicaid managed care. After hundreds of hours consulting with States, providers and consumers, last month we introduced a revised version, S. 3191, that incorporated numerous improvements.

Our legislation enjoyed bipartisan support. Last week the Democratic Governors of New York and Pennsylvania wrote forceful letters urging its passage. President Bush personally endorsed it. The National Governors' Association was united behind it.

S. 3191 would have removed the waiver process and removed the 75/25 rule that limits Medicare and Medicaid enrollees to 75 percent of an HMO's total enrollment. It would have given Medicaid clients the choice of at least two managed care plans, and clients could have changed plans easily. It also would have allowed clients to keep receiving care even when they became temporarily ineligible.

Though we wanted the bill to be included in the package of Medicare and Medicaid improvements in H.R. 11, I

accept Senator BENTSEN'S judgment that our bill was controversial and I understand his good reasons for keeping the package as noncontroversial as possible. And I am pleased that the package includes several provisions that would make it easier for Medicaid clients to benefit from managed care. For example:

States would be able to get waivers to establish primary care case management programs for 3 years initially and 5 years thereafter; currently waivers are limited to 2 years.

It would be easier for HMO's, especially those that operate for profit, to obtain waivers of the 75/25 rule. That measure was designed as an indirect guarantee of quality, but there's no evidence it has done so. Yet it has made it impossible to establish HMO's in neighborhoods with few privately funded clients.

States would be able to extend an enrollee's coverage for 1 month if the person otherwise would be temporarily ineligible for coverage. This has real benefits for continuity of care, which is so important for Medicaid clients. It is also a no-cost item, since it relieves States of considerable paperwork burden.

I believe Senator MOYNIHAN and I can take at least some of the credit for these provisions. I also hope that all the discussion of the last year has helped prepare the way for future action to make managed care available to more Medicaid clients.

Mr. President, as my colleagues well know, any important legislation will attract critics, and our legislation had critics with very specific concerns. But I also sense a nagging discomfort among some people about the whole idea of managed care for Medicaid clients. That is a topic that needs to be addressed.

First, there is concern that managed care reduces access to care. True, managed-care systems discourage clients from seeking care elsewhere. That is part of serving as a medical home and improving continuity of care. And under our bill clients would have had choice where it matters—among plans. Every Medicaid client in managed care would have had a choice of at least two plans—and could have switched plans at any time with little more than a month's notice.

Our current Medicaid system is hardly a gold standard of excellence in access. Congressman ED TOWNS, who represents a part of Brooklyn where one-third of the residents qualify for Medicaid, testified last April that:

> Freedom of choice becomes a meaningless concern when there are few or no providers willing to serve you. * * * Enrollment in a managed care plan, by contrast, can assure that Medicaid residents in Brooklyn and elsewhere have access to physicians whose credentials are carefully evaluated and who are required to be available to their patients on an around-the-clock basis.

Second, there is the feeling that managed care is necessarily worse care than what is available now. This is a remarkable opinion to hold, given the type of fragmented, low-quality care Medicaid clients too often receive now. It is true HMO's have financial incentives to underserve their clients—just as they have financial incentives to prevent illness, to avoid duplication of service, to deliver care efficiently and to find new, more effective ways of caring for their clients.

Because we anticipated this criticism and because we believe in quality assurance, our bill required managed care programs to provide locations, hours and patient/staff ratios at least as good as clients would otherwise have, to have formal quality assurance and grievance systems and to undergo an independent review every year. States would have to have had their own quality assurance systems, including client satisfaction surveys and grievance reviews. Fee-for-service providers don't have to meet any of these standards.

Third, there is the feeling that managed care is so risky that the Federal Government should micromanage any State that includes it in its Medicaid program. But HMO's have been around for decades and have been extensively studied. Thirty-one States have Medicaid managed-care programs, involving HMO's or primary-care case-management programs, with 2.7 million enrollees. The waiver process is appropriate when an idea is new and untested, but that obviously isn't the case here.

Mr. President, though I would have preferred to see S. 3191 debated on the floor of this chamber, I am pleased by the improvements that did make it into H.R. 11. I very much hope we will make further progress in the 103d Congress. It is high time for the Federal Government to stop discouraging States from offering Medicaid clients the benefits of managed care.

Mr. PACKWOOD. Mr. President, in a few minutes we will be voting on the urban aid tax bill.

We spent over a week on this bill on the Senate floor—2 days in August and another 4 days last week. We ended up considering roughly 80 amendments before wrapping things up Saturday.

This bill contains a lot of important provisions that have widespread support in this body:

First, a new enterprise zone program to provide much-needed relief to economically distressed urban and rural areas.

Second, 15-month extension of expired tax programs, such as: the R&D tax credit; the low-income housing tax credit; educational assistance; group legal.

Third, five of the President's seven short-term economic growth proposals, including a tax credit for first-time home buyers.

Fourth, capital gains relief for new venture capital investments.

Fifth, small market health insurance reform.

Sixth, a new child welfare program.

This bill also contains some important provisions for my home State of Oregon:

First, expansion of the Reforestation Trust Fund.

Second, a fix to the Treasury regulations for small woodlot owners that will allow them to prove they are active for the passive loss rules.

As I said on this floor last week, we do not know if the President will sign this bill. We do not know if he will sign any tax bill. We do not know what tax increases, if any, he will accept.

I ask my colleagues on this side of the aisle to move this bill forward. Give us a chance to work with the administration to shape this bill into one that the President may be able to sign. If the President doesn't like the final product, he will not sign it and that will be it. There will be no tax bill.

I wish to thank my colleagues on the Finance Committee for their work on the bill, and especially Chairman BENTSEN who worked hard to keep this bill as bipartisan as possible.

Mr. DURENBERGER. Mr. President, as this bill goes to final passage, I find myself in the unusual situation of liking the bread in this sandwich a lot better than the meat. The title of this bill refers to urban aid, but its most substantial lasting contribution will be in the area of health.

On the tax side of the ledger, I am reluctant to support this bill. In particular, I believe the concept of enterprise zones is fundamentally flawed and will not bring economic development to our Nation's inner cities and rural areas. In my view, the $5.2 billion proposed to be spent on creating 125 enterprise zones would be better spent on job retraining, infrastructure enhancement, and a host of other programs aimed at skill development for the unskilled and undereducated.

I also have concerns about opening the individual retirement account [IRA] door again. And I am especially concerned about the new type of IRA, the so-called back-door IRA which will allow individuals to contribute up to $2,000 to an IRA, receive no tax deduction, and then be allowed to withdraw the money, plus the earnings that built up, tax-free if the money is held in the account for 5 years. In addition, individuals could transfer their current IRA assets, penalty-free, into the back door IRA. I believe the $5.8 billion estimated revenue loss associated with this proposal is far understated.

On the other hand, Mr. President, the bill contains many tax provisions that I believe should be adopted. For example, the bill would allow corporations to calculate the depreciation component of the alternative minimum tax, the so-called alternative current earnings or ACE calculation, in a more fa-

vorable way than is currently permitted. And it provides some relief to the hard hit real estate sector of the economy by easing up the passive loss rules.

All of the expiring provisions including the R&D tax credit, the low-income housing credit, the targeted jobs tax credit, the tax credits for solar and geothermal, mortgage revenue bonds, and first-time farmer bonds will all be extended for more than a year.

I am pleased that the bill repeals the luxury tax on boats, airplanes, jewelry, and fur. This soak-the-rich proposal that evolved out of the 1990 budget agreement never should have been adopted. Another provision that I have long supported is the portion of the bill repealing the 1986 provision that subjected gifts of appreciated property to the alternative minimum tax.

The bill also includes a provision that I have cosponsored for several years that restores the deduction for the adoption of special needs children, and doubles the deduction to $3,000. I tried to save this provision in 1986 and believe that restoration of the deduction is an important accomplishment. Another provision of this bill that I have long been associated with is the provision that allows tax-exempt employers to establish section 401(k) cash or deferred plans.

Furthermore, Mr. President, I am pleased that legislation cosponsored by Senator BUMPERS and myself dealing with child-support is included in this bill along with my amendment that provides equity to employees of airline travel reservation services such as the one operated by Northwest Airlines.

Mr. President, what is most important to me, and the main reason I will vote for this bill, are the health provisions contained herein.

Partisan politicians for years have had a lot to say about health care, but they have found very little they could do about health care. This bill breaks that unfortunate pattern. Because of a genuine spirit of bipartisanship fostered by our chairman, LLOYD BENTSEN, and the combined expertise of many Members who have been studying and working on health care solutions long before it was politically hot, this bill is a major step forward for the health of Americans.

Mr. President, here are some of the most significant areas of progress in this act:

SMALL GROUP INSURANCE REFORM

A majority of America's uninsured and underinsured families are self-employed or work in small businesses. We have seen across the country that the price and coverage of policies offered to these people is a far cry from that available to workers in large- and medium-sized businesses. The language in this bill, which is based on S. 1872, which Senator BENTSEN and I introduced earlier this year, and S. 700, which I introduced last year, will restore equity and affordability to this market.

All companies selling insurance in the "small group market" will be required to offer a basic benefit plan to all small businesses. These packages would be exempt from State mandates, which have added substantially to the cost of insurance by adding coverages which are not essential.

Where you work shouldn't determine if you can get insurance. This bill can help us reach toward that goal.

HEALTH TAX FAIRNESS FOR THE SELF-EMPLOYED

For years we have been working to eliminate for good one of most unfair provisions in the entire tax code. A business gets to deduct 100 percent of the cost of the insurance it provides for its employees. But a farmer, or anyone else who works for him or herself only gets to deduct 25 percent. Not only do they pay more for less coverage, but they get less of a tax break to boot.

This bill gives the self-employed 100 percent deductibility, if not permanently, for the near future.

RURAL HEALTH ASSISTANCE

As a Senator from Minnesota, one of my foremost concerns is the ability of rural citizens to have access to quality care. This bill includes three important provisions toward that end.

We have reauthorized and expanded the Rural Health Transition Grant Program, which I authored in 1987. I am very proud of the fact that this program has already helped 88 Minnesota hospitals with over a million dollars in grants to help them adjust their services and facilities to changing economic conditions. We have now doubled the 1987 authorization level, and tripled the amount that individual hospitals can receive.

And we have extended two other programs which have been invaluable to rural hospitals: Rural Referral Centers and the Medicare Dependent hospitals, both of which adjust Medicare reimbursement rates to better reflect the true value of these hospitals to their communities.

These are hard times for rural hospitals, so these changes are literally the least we can do.

PHYSICIAN PAYMENT REFORM AMENDMENTS

Two years ago we set out to change the way Medicare reimburses physicians so we can get more of the kind of care we want, and where we need it. In this bill we make three necessary adjustments to physician payment: providing fairer reimbursement for the work of anesthesiologists; making sure that EKG interpretation receives proper priority, which was the subject of S. 2914, which Senator ROCKEFELLER and I have introduced; and third, eliminating discriminatory reimbursement cuts on new physicians, which Senator MCCAIN and I have sought to eliminate.

These changes help insure that quality medical service will be available when senior citizens need them.

MANAGED CARE PROMOTION

My Minnesota experience has shown me the value of managed care for simultaneously increasing quality and controlling costs. That's why Senator MOYNIHAN introduced S. 2077 and S. 3191 earlier this year. Borrowing some of the provisions of those measures, this bill will help people on Medicaid take advantage of managed care by adding additional flexibility to state programs to serve this population. Managed-care waivers from Medicaid provisions will be easier to obtain, can be of longer duration and will allow for States to automatically extend coverage for one month for those who would otherwise become temporarily ineligible.

Managed care is part of the answer to our health problem and the Medicaid program is an excellent place to demonstrate its effectiveness.

MINNESOTA IDEAS INCORPORATED

I am particularly pleased that the Finance Committee package recognizes several concerns which were brought to my attention by Minnesota health providers.

The bill deals with an anomaly in the law which jeopardized the continuation of the excellent care provided by the Phillips Eye Institute of Minnesota.

The University of Minnesota, where some of the Nation's foremost organ transplantation work is going on, suggested that Medicare should extend the period of reimbursement for the immunosuppressive drugs so necessary to transplant patients. That has been done in this bill.

I welcome the approval of an extension of the Alzheimer's Disease Demonstration Program, so that the excellent work being done by the Wilder Foundation in Minneapolis can continue.

And the bill's approval of an inflationary update for the dialysis composite rate will prevent hardship in dialysis units across rural America.

Mr. President, America has a long way to go before we can rest on the quality, access and cost of the health care available to our citizens. That is why we cannot afford to let politics set the agenda for action.

This bill doesn't include everything I would have wanted. I wish that the calendar and unfounded controversies had not prevented us from dealing with the ERISA preemption issue which is holding back States like Minnesota who want to expand access. I wish we could have debated and enacted additional Medicaid managed care issues and further benefits for rural health. But I'm very pleased at the progress we have made.

I again wish to thank and credit my chairman for making this happen. I also want to highlight the fact it was

bipartisan cooperation among many members that has helped move us forward.

We have a huge agenda before us in the 103d Congress. The action on this bill gives me confidence that together we can make real progress next year toward the healthier America every one of us seeks.

So, Mr. President, my vote on this tax bill is decided on balance. I have concluded that the good this bill can do for Minnesota exceeds the harm. Politics, in the late Senator Javits' famous formulation, is the art of the possible. By that limited standard, this bill deserves our support.

Mr. ROTH. Mr. President, I rise in support of H.R. 11, the Revenue Act of 1992. And I would like to publicly commend the chairman of the Finance Committee, Senator BENTSEN, as well as the ranking member, Senator PACKWOOD, for a stalwart demonstration of leadership. Together, they successfully moved this bill through the committee to where it stands today—a postitive first step in a much-needed overhaul of America's Tax Code.

Though this bill isn't perfect, I call it a positive step because it does several important things to promote economic growth. The strongest drawback to this bill is an extension of the mistake made in 1990 to raise taxes. I am strongly opposed to this extension of these taxes and I will work hard to remove these disincentives and penalties from this bill in conference.

With that said, there is much to recommend H.R. 11:

First, it creates enterprise zones to rehabilitate economically depressed areas throughout America. It allows for these enterprise zones to be created with as little Government interference as possible, encouraging private enterprise and market values that are fundamental to America's strong economic legacy. What a tremendous transformation this is, from the old, worn-out social policies that stifled self-reliance and engendered ever-increasing dependence on Government.

Second, this bill offers important reforms to health care. One that I am strongly supportive of is the provision that allows self-employed Americans to deduct 100 percent of their health insurance costs.

This, again, is a principle of empowerment—giving Americans what they need to meet their needs. Toward this end, this bill extends fairness to all American risk-takers—those men and women who are the backbone of our economy. This bill allows our farmers, our small businessmen and businesswomen the ability to take ordinary and necessary business deductions for health insurance that have always been allowed for larger business.

Third, H.R. 11 rightly extends expiring tax provisions that are critical to the future competitiveness of America—provisions like the research and development tax credit, mortgage revenue bonds, employer provided education expenses, among others. It also expands the education savings bonds and simplifies the tax law for charitable organizations—another mainstay of our society. I am also happy to see it provide some tax simplification for all taxpayers.

Fourth, this bill finally does away with the luxury excise tax, a tax that I fought vehemently in 1990, and a tax that has proven devastating to many of our industries and workers. Likewise, it contains five of the President's seven growth incentives that he proposed as part of his budget last January. I do wish Congress could have acted more quickly on moving these initiatives, passing them by the March 20 deadline he asked for; as they say, however, better late than never. I hope that in due time we will also be able to come together on a meaningful cut in capital gains taxes as well as investment tax allowances to encourage investment in machinery and equipment by our Nation's manufacturers. Both of these will be fundamental to a strong American economic future.

Finally, Mr. President, I support this bill because it contains what I believe will be a strong instrument in improving our economy. It contains the Bentsen-Roth IRA. I have said much about the virtues of this provision over the last few months. But I don't think it's importance can be overemphasized. Bentsen-Roth puts families first. This is a provision that is good for the home. When so much is being said about family values, this IRA which encourages self-reliance, which allows for penalty-free withdrawals for first-time home purchases, education costs and health care bills, is a strong bipartisan effort to secure those values. With the Bentsen-Roth IRA families have a powerful instrument to take control of their futures—to take control of their futures according to their respective needs and time frame.

Bentsen-Roth is also great for America—for capital formation and investment. In the past, I have cited the figures. Studies show how much capital can be raised for future businesses, for research and development, to rebuild infrastructure, plants, educational institutions and to purchase machinery and equipment. One study, by the respected Lewin/ICF economic group shows that Bentsen-Roth will increase new capital by at least $31 billion in 1995, and by $838 billion by the year 2030. This is what America needs. This same study shows that our gross national product will be at least $75 billion greater by the year 2030, while interest rates would be at least 1.5 percent less, all because Americans will be saving more—encouraged by the incentives provided in Bentsen-Roth.

These are the reasons I'm supporting this bill. There are others. And, as I have said, there are things I would like to see done differently. Most notably, I would like to see those taxes raised in the 1990 bill—taxes that were set to expire in 1995—expire. I think it is deceptive to tell the American people one thing and then to do another. But I believe that even in this flaw we can learn a valuable lesson: We learn that when Congress gets a hold of the taxpayers' money, it seldom, if ever, lets go. That's something we should all keep in mind in the years to come.

For my part, I will continue to press for the elimination of those taxes. I will continue to keep Congress' feet to the fire. But for now, this bill represents a good, bipartisan effort to correct many of the gross deficiencies in our Tax Code. In time, I hope we can get them all.

Mr. BRADLEY. Mr. Speaker, before we pass this bill today, there is one question that I would like each Senator to ponder. Will our country be better off with this tax legislation than without it?

Our Nation is at a crossroads. Our economy is growing so slowly as to make it feel like the recession never ended. We are adjusting to a new era of international competition—an era that offers not only new challenges but tremendous opportunities. And we continue to face a fiscal crisis in the form of a staggering national debt. We can no longer afford to play by the old rules. We can no longer delay leadership.

Mr. President, there are provisions in this bill that I strongly support. I believe the crisis in our cities has come to the point that we have to be open to new policy options. We should combine the best of the left with the best of the right. I would like to commend Chairman BENTSEN for his efforts to fashion an enterprise zone proposal that focuses on job creation and not on rewarding wealthy investors and corporations. I also strongly support the provisions calling for further investments in substance abuse prevention, foster care, job opportunity, and basic skills training programs.

But this is a $30 billion urban aid bill that spends only $5.8 billion on urban aid. The largest share of this spending goes to enterprise zones. But tax breaks alone will do little to change the conditions of our inner-cities and attract business. Companies need to be assured that they will have adequate transportation systems for their goods, that they will be able to ensure the physical security of their workers, and that they will be able to draw upon a well-educated, well-trained work force. To truly change the situation of those living in urban blight, we need to invest significant national resources in transportation, in crime prevention, in public infrastructure, and in human capital. The message this bill sends to our inner cities is that we do not know

what to do, we are not going to think about what to do, and if forced to do something by riots and news coverage, we will conjure up a modest tax break and hope that it works all by itself.

The increase in the number of enterprise zones to 125 only reveals the hollowness of the urban spending amendment which was added to the tax bill. $300 million is to be divided up among 125 cities and 38 social programs—for an average of about $63,000 per program. That is about six slots in the Job Corps. It is a teacher and a half. It is one or two more cops walking the beat in a community policing effort. In my view, this is only token urban assistance.

Still, if this bill had remained just a limited urban aid bill, I could have supported it. Unfortunately, it did not. We spend about as much to extend the so-called expiring provisions as we do on urban assistance. Keeping these provisions in limbo is clearly bad tax policy and the time is long overdue to extend the good ones permanently and let the others expire once and for all. We have also added a new wrinkle to the extenders by linking them up with the section 29 credit—an obsolete energy credit that distorts markets and harms small energy producers throughout the United States. Another $5 billion in the bill goes for simplification, luxury tax repeal, member items, and the like. Some of these measures make sense; others do not.

But the biggest share of the bill goes to the President's growth package. It sees that anytime someone wants to pass a tax break around here, they simply have to cloak it under the title of a "growth" incentive or a "jobs" policy. Does anyone really believe that a $12 billion tax package will spark a $6 trillion economy? Does anyone really believe that a 6-month rebate program for home purchases will create long-term growth? Does anyone really believe that an IRA proposal that will cost billions of dollars in tax revenues in the years outside the budget window will increase our national savings rate?

Mr. President, the reason we are where we are today is that Congress and the President—in our desire to meet the many needs of the American people—find it easier to expand programs and to pass tax breaks than to eliminate programs and to increase taxes. It is important to remember that we can spend money just as easily through the tax code as through the appropriations process. But unlike the appropriations process, tax breaks are not debated every year—they go on and on until we can muster the courage to take on the special interests.

This bill is no different. We will spend $2.1 billion to provide tax relief to wealthy real estate developers. We will spend $1.3 billion to give capital-intensive industry their tax breaks back in the alternative minimum tax. We will spend $1 billion to subsidize a small number of oil and gas producers. And we will spend over $6 billion to give taxpayers in the top 20-percent backloaded, rolled-over IRA's.

The inevitable result of shuffling all this money around is that narrow groups of taxpayers win while the rest of us lose. We pay for the real estate relief by hitting corporate America. We pay for the IRA's by taxing the same group that receives the benefits of the IRA's—robbing Paul to pay Paul. And perhaps most importantly, to the extent that this bill is not fully paid for in the years outside of the budget window, we place an increased burden on the backs of our children and our grandchildren.

Mr. President, at some point, we are going to have to be honest with the American people about what it will really take to create long-term growth. I would like to repeat the alarm message which the General Accounting Office sent us earlier this year. If we continue our current spending and revenue paths, the deficit could reach 20 percent of GNP by the year 2020 and net annual interest costs could rise to over a trillion dollars. Put simply, if we fail to return to fiscal sanity, we risk making the United States a second-rate economic power.

Fiscal accountability should be the minimum standard by which we judge all of our actions in this institution. But, Mr. President, we are not giving the American people a true accounting of the costs of this bill. We set an honesty trap back in 1986 when we did tax reform. If you put loopholes back into the Code, one of two things happen. You either have to increase tax rates or increase the deficit. My fear is that this bill takes the latter approach. With a national debt now over $28,000 per worker, we must stop playing games with the budget rules and with the deficit.

Roughly half of the money we use to pay for this bill is either temporary or comes from one-time speedups in tax collections. We claim to raise $6.6 billion from changes to the corporate and individual estimated tax provisions alone. These are not new revenues, but simply manipulations of the timing of tax receipts. We claim to raise $7.7 billion by extending two provisions passed in the 1990 budget agreement—the so-called Pease and PEP provisions. These also are not new revenues, but rather an extension of current tax liability. And many of the revenue-losing provisions of this bill are jiggered so as to hide their true costs outside of the budget window. The IRA proposal includes backloaded accounts and rollovers that push the costs of the proposal beyond 5 years. The section 29 credit is billed as an 8-month extension, but continues to lose revenue into the next century. The retroactive election provision of the intangibles legislation lets companies purchase tax amnesty at the price of 50 cents on the dollar; this legislation could cost us up to $2 billion per year outside of the budget window. If something is worth doing, Mr. President, then we should be willing to pay for it fully, openly, and honestly.

Mr. President, I look forward to the day when we can get to work on the long-term solutions that we all know we need—solutions that will lead to less consumption, more savings, and more investment. However, because I believe this bill spends too little on our urban crisis and too much on loopholes primarily used by wealthy Americans and corporations—because I believe this bill will add to our budget deficit and harm our prospects for real growth—I cannot vote for it.

Mr. LEAHY. Mr. President, I remember a time when the bill before us was called the urban aid tax bill. President Bush and congressional leaders agreed that our Nation's cities desperately needed help. We decided that relief would be provided to cities in the form of financial aid and tax subsidies.

This past summer, Congress passed the first part of an urban aid package by funding $1.1 billion in small business loans, disaster assistance, and summer jobs.

Today, the second part of that urban aid package—the tax bill—is before us.

Unfortunately, this bill got lost along the way.

Instead of helping our inner cities, this bill is nothing more than a collection of special interest tax breaks and loopholes thrown together under the guise of helping America's cities.

Instead of a helping hand for those in need, this is a handout for well-healed Washington lobbyists. With this bill, for a select few, Christmas arrives 3 months early this year.

Let us look at the facts.

The tax bill before us doles out $32 billion in new tax breaks. Of that, only $5.3 billion goes to help cities.

The lion's share of aid in this bill—over $25 billion—benefits corporations, high-income individuals, and special interests. It has little to do with the revitalization of our cities.

To add insult to injury, this bill will significantly add to the deficit. Sure, the bill is technically paid for over 5 years. However, most of the revenue sources in this bill are temporary while the tax breaks in this bill are permanent. The net result: This bill will add tens of billions to the deficit annually by the turn of the century.

Guess who is going to pay for the deficit increase in this bill. The taxpayers of the United States.

The Federal deficit is gnawing at the foundation of our country. Instead of teaching our children, fixing our bridges, and cleaning up our environment, the Federal Government has to spend nearly $1 out of $5 just to pay

foreign governments, international banks, and others for the interest on the debt.

In 1986, I supported the Tax Reform Act which closed many special interest loopholes in our Tax Code. This bill continues the chipping away of the reforms we made in 1986. And for what? To rebuild our cities?

Expanding tax breaks for those giving charitable gifts to universities will not improve the condition of our cities. Neither will the section 29 tax credits, accelerated depreciation tax breaks, nor easing of passive loss rules.

None of these changes fight poverty in America, rebuild our cities, or make urban areas industrially competitive.

Extending tax credits for research and development, low-income housing, IRAs, and first-time home buyers are all provisions I support. But these provisions do not belong in a tax bill aimed at helping impoverished urban areas.

It is true that the bill contains an enterprise zone provision aimed at aiding the cities. But this provision seems tentative at best.

Enterprise zones are not a panacea to the problems faced by our cities, but they can play a role in promoting urban economic revival. The enterprise zone provisions in this bill provides minimal aid.

If Congress and the administration want to spend $32 billion on urban recovery, there are many better ways to do it. Worker retraining programs, mass transit, public works investment, and increased law enforcement are several examples. All do more for American cities than the tax breaks in this bill.

Last March, the Senate passed an economic recovery tax package containing 80 percent of what the President asked for in his State of the Union Address. Instead of signing the bill to get this country moving, he chose to veto it.

Now, with the election fast approaching, the administration wants a bill it can sign. Unfortunately, this bill will not help the cities nor get the economy going.

It is nothing more than a grab bag of special interest tax breaks.

This is the wrong bill, at the wrong time, for the wrong reasons.

Mr. DODD. Mr. President, the frequency with which we change the tax code is both a blessing and a curse. It is a blessing because it gives us opportunities to correct past mistakes. It is a curse because it gives us a chance to make new ones.

In many ways, we would not need today's bill were it not for past mistakes. The 1986 Tax Reform Act, which I opposed, hobbled the usefulness of individual retirement accounts, a key incentive needed to bolster the national savings rate and our long-term economic health. That same bill also devastated the commercial real estate industry by retroactively repealing the passive loss rules, instead of gradually taking the air out of the speculative bubble created during the early 1980's.

But in correcting these mistakes, we would be doing as grave disservice if we made a whole host of new ones. For example, we should not repeat the history of the 1981 Reagan tax bill, which opened the floodgates to the massive deficits of the 1980's. This bill must do no further harm to a Federal budget already seriously out of kilter.

In this regard, I note that the bill is deficit-neutral over the first 5 years of its life. That is required under the terms of the 1990 Budget Enforcement Act, and rightly so.

Regrettably, the effects of this bill on the deficit after that 5-year period are much less certain. I am concerned by this. If it becomes clear this bill would have further deleterious effect on the deficit, we should revisit it, and should ensure that this legislation remains deficit neutral over the long haul.

Mr. President, we debate this bill at time when Americans, more than anything else, need jobs. The thousands thrown out of work by the current recession need jobs to get back on their feet and get their heads above water. Americans who live in our Nation's cities need jobs to rise above poverty and grasp a better future for themselves and their children.

This bill would put Americans back to work.

It would put people to work by helping to get the economy moving again. For example, the $2,500 first-time home buyer tax credit will help rejuvenate the housing industry and create jobs for builders—even as it helps push those at the margins of home ownership affordability over the top and into a home. Moreover, as I have already alluded, this bill's passive loss provisions will also help create jobs by pushing the commercial real estate industry toward recovery.

This bill would also help set our Nation on a more secure footing for the long term, so that Americans have good-paying jobs in the future.

This is critical because many of our current economic woes are the product of more fundamental structural changes. International economic competition is intensifying, and regrettable, we are losing much of our manufacturing base. My State of Connecticut, for example, has lost one-third of all its manufacturing jobs over the past decade.

The bill's individual retirement account provisions will offer Americans added incentive to save—by restoring the deductability of individual retirement accounts for all Americans, and by creating a new type of Super-IRA account. Boosting the national savings rate will help ensure that American companies have easier access to the capital they need to upgrade their plants and equipment.

H.R. 11's IRA provisions will also bring needed help to millions of middle-income Americans, who have seen their taxes increase and their incomes stagnate over the past decade, even as the cost of housing and higher education skyrocketed. True? Allowing penalty-free withdrawals from IRA's to pay for college or to make a downpayment on a first home will help bring the American dream back within reach for many.

The bill also promotes our Nation's long-term economic health by retroactively extending a series of Tax Code provisions that expired on June 30. These include the targeted jobs, low-income housing, and research and development tax credits, along with the mortgage revenue bond program and the deduction for employer educational assistance.

We need these incentives to promote research and development by U.S. companies, and to encourage the hiring of underprivileged young people. We need them to foster the creation of affordable housing, and to give employees added incentive to get additional work-related education. All of these are important national objectives, and I would hope that all will eventually become permanent features of our Tax Code.

Another important provision of this bill extends the tax credit for development and production of domestic alternative energy sources. This is critically important if efforts to develop sources of energy that preserve the environment are to continue. In my State of Connecticut, for example, companies are working to perfect fuel cells that turn waste methane gas from landfills into electricity, and extension of the credit will be extremely helpful in furthering that research.

Last but certainly not least, Mr. President, H.R. 11 would create 125 enterprise zones. Seventy-five of these will be in cities, and 50 are to be in rural areas. Significantly for Connecticut, 40 of the 75 urban zones are reserved for cities with 500,000 or fewer inhabitants—meaning that the Bridgeports and New Havens and Hartfords of our Nation will not compete directly with New York and Los Angeles for a zone designation.

Enterprise zones are not the panacea for our urban problems, Mr. President, but they will help. We already know that from experience. Connecticut was one of the first States in the Nation to develop an enterprise zone program at the State level, and our 11 zones have seen some major successes.

Over the past decade of its existence, for example, the Hartford zone has seen the investment of $42 million, and the creation of 1,500 jobs. That is without any Federal incentives. The addition of

the Federal component will only enhance the power of these zones to attract jobs back to our cities. And this is needed, because there is no better social program ever created by the mind of man than a job.

Mr. President, while I recognize that the core of this bill is solid and beneficial, I also know that there are a number of extraneous provisions which have climbed on for the ride. I would hope the conferees can tighten the bill in the course of the upcoming conference to produce a bill that merits everyone's support, and I certainly hope the President will join in this effort.

Clearly, this bill is not the only step we must take to build a better economic future for our Nation. We need to balance the budget. We must radically reform our system of elementary and secondary education. We must continue to assist defense-dependent industries and communities as they make the transition to a world of reduced defense spending.

Nevertheless, this bill is a first step as we reorder our priorities. It shifts the emphasis away from consumption, and toward long-term savings and investment. And it will help revitalize our cities. Americans will be better off if this bill passes, Mr. President, and for that reason, I urge my colleagues to support it.

Mr. McCAIN. Mr. President, let me begin by stating that I am opposed to this legislation because it represents what is wrong with our budgetary and fiscal policy. This bad legislation is the product of a bad system.

The system is so flawed that a 60-vote supermajority is required to cut taxes while only requiring a simple majority of 51 votes to raise taxes. The so-called pay-as-you-go provision from the 1990 budget deal separately requires that any revenue-loosing tax cut must be offset by another revenue-raising tax increase. The net effect being an economic wash. Transferring wealth from one group in society to another does not fundamentally increase the wealth or standard of living of that society.

The Congress should not be limited by such a counterproductive legal requirement. We will never stimulate economic growth or jobs by shifting the same dollar around. It is still only one dollar. We need a budgetary and fiscal policy that pays for tax cuts with spending cuts, not just another, but different, tax increase.

The so-called urban aid package ultimately is just another tax increase. We have all learned the hard way what a disaster a tax increase is during a recession or slow-growth period from the 1990 budget deal. I voted against that deal because I thought that tax increases would only stifle economic growth and eliminate job opportunities. And, that's what happened. I am against this fiscal shell game for the same reasons. It will not increase economic growth. It will not add jobs. It will not reduce the deficit. And, it will do little for urban areas.

Despite the lessons we should have learned, H.R. 11 permanently extends failed provisions of the 1990 budget deal. Congress is alone in its belief that we can tax our way to prosperity. I know differently. We cannot, and never will, tax our way to prosperity. Passage of this legislation will only take us one step closer to the economic poor house.

While there are many tax cuts in this legislation that I support, and will continue to support, those tax cuts should not be paid for by tax increases. Tax cuts should be paid for by spending cuts. We must begin reducing the tax burden and the size of government. Both are strangling the life breath out of our economy.

I would like to add that I have been a supporter of tax incentives like enterprise zones as a potent means to expand economic growth and job opportunities. Congress got it half right this time by including various tax incentives, but the bad provisions of the bill outweigh any benefits from the included tax incentives. I hope Congress keeps moving in the right direction toward tax incentives for economic growth, jobs, and opportunity.

I strongly urge my colleagues to vote against this ill-conceived revenue bill.

Mr. GORTON. Mr. President, the tax bill before us today presents another example of Congress again trying to be all things to all special interest groups. I have been around Congress long enough to know, of course, that one Senator's special interest group is another Senator's constituency. And, frankly Mr. President, this bill provides many things to many of my constituencies.

In its totality, however, I must vote against this bill because of four provisions: First, the making permanent of the temporary 1990 budget agreement tax increases; second, the onerous impact of the change in tax estimate procedures on small business; third, the excessive new entitlement program the bill creates; and fourth, the excessively generous and costly individual retirement account expansion contained in the bill.

Before I speak to each of these issues, I want briefly to touch on the provisions of this bill I do support. And, despite my opposition to the legislation before the Senate today, I will support the tax bill if it returns from conference with the House with the appropriate changes.

One of the most appealing provisions of the pending legislation, a provision which directly affects an important constituency of mine, relates to the repeal of the luxury tax. Most specifically, I am concerned about the effects of the luxury tax on the boat building and selling industry in Washington State.

These are large industries in my State. Employers such as Bayliner and Tollycraft employ hundreds of individuals in the State of Washington. After visiting Bayliner, I was so swayed by the plight of that company and its employees that I signed on as a cosponsor of the legislation to repeal this tax. These companies and others have contacted me urging me to do everything I can to repeal this onerous, industry-crippling tax.

I deeply regret that I cannot support the legislative vehicle which overturns the luxury tax on boats. I voted against the imposition of this tax and remain a strong supporter of repealing this tax. I will not, however, support the repeal of the luxury tax on boats at any cost. This bill, unfortunately, exacts far too large of a cost as I will detail later.

Another important provision in H.R. 11 is the provision prohibiting the imposition of the source tax. In brief, this tax is imposed by States on nonresidents' pensions under the dubious rationalization that the retirees worked in the State imposing the tax while accruing their pensions.

This tax by one State on a former resident's pension is a major and unfair irritant to the many individuals who chose the beautiful State of Washington as a place to retire. Residents around my State have contacted me and expressed their frustration at the imposition of this tax. Here also, I am a cosponsor of the legislation which prohibits States from imposing this tax on nonresidents' pension income. But, again I cannot support the vehicle by which the imposition of this tax is prohibited.

Finally, many of my constituents have called to urge my support of those provisions in H.R. 11 generally called the tax extender provisions. As my colleagues are aware, the Congress generally finds some vehicle to extend these tax breaks every year or so. Included among these popular provisions are tax breaks for low-income housing, corporate research and development, a targeted jobs tax credit, mortgage revenue bonds, and employer provided educational assistance.

All of these tax breaks have large constituencies in my State urging me to support passage of this bill. The housing agencies called about the low-income housing tax credit. Many corporations and business contacted me about the R&D tax credit and the employer provided educational assistance. All urged me to pass H.R. 11 because of one important provision or another.

This is no accident. Those who drafted the bill have married these justified provisions with dozens of dubious or bad special provisions which would never pass on their own, hoping that they can become law under cover.

Mr. President, I cannot ignore the fact this is almost a 2,000-page piece of legislation which costs $21 billion in either lost revenue or new expenditures. I support all of those provisions urged on me by my constituents, the boat builders and sellers, the retired senior citizen whose pension is being taxed by his former State's government, or the conglomeration of nonprofit agencies and for-profit businesses that will benefit from the extension of worthy tax breaks. I cannot, however, ignore the larger ramifications of many of the provisions in this bill and will not be bought out or bullied into accepting higher taxes for fear of angering important constituencies.

First, and foremost, I am concerned about either retaining tax increases scheduled to be phased out or increasing taxes during this time of a weak economy. I voted against those taxes which were increased as part of the 1990 budget deal. Among these taxes are: First, extension of the 55 percent top estate and gift tax rate for 5 years; second, extension of the personal exemption phaseout for upper income taxpayers for 1 year; and third, extension of the itemized deduction limitation for upper-income taxpayers for 2 years.

Mr. President, I voted against those taxes then for the same reason I do not want to vote for making them permanent now. The problem is not a lack of revenue; the Federal Government will collect over a $1 trillion this year. These are provisions which I believe are unproductive and detrimental to the economy.

To quote former President Ronald Reagan, "There you go again." Once again the democratically controlled Congress is creating a set of new or expanded programs with the passage of this legislation. And once again, this democratically controlled Congress insists on raising taxes to pay for these new programs rather than prioritizing these needs within the current tax base of the country.

Another provision of the bill of concern to this Senator is not directly a tax increase. The provision, euphemistically called a revenue raiser, is nothing more than an extortion from America's small business owners. As part of this bill, individuals making over $120,000 are required to pay 120 percent of the previous year's tax liability for the current year, or incur large tax penalties.

As we tried to explain during last spring's debate on the Democratic growth package, these people are America's small business owners, incorporated as subchapter S corporations. By law these small business owners must take all of the firms' profit in as personal income.

The National Federation of Independent Business [NFIB] has pointed out that the No. 1 problem confronting small businesses throughout this country is "cash flow." This provision of H.R. 11 without a doubt will complicate and confuse small businesses. These businesses will have accurately to predict the revenues to be generated by their businesses or face onerous and outrageous tax penalties. These businesses will either pay the higher taxes which they don't owe to the Government to avoid these penalties or pay an accountant accurately to predict and report the year's earnings.

In either case, the bottom line for small businesses is that cash flow and their businesses will be hurt by this tax bill. I do not believe that this bill contains provisions of such importance that this Congress should consider further burdening our country's small businesses with regulations of this kind, especially because these new regulations are designed to raise money that the Federal Government is not owed. Primarily, this is an accounting gimmick designed to make the budget deficit look smaller, not actually to increase revenues. In this Senator's view, we should not play these games with people's livelihoods.

The bill before the Senate today, in the name of Urban Aid, also creates a new entitlement. The goal of the program is to improve the delivery of child welfare services. As far as this Senator can tell, this is an entitlement for bureaucrats.

The amount of money is capped at a set amount, approximately $300 to $400 million per year. A positive development in the area of entitlements, I wish all of our entitlements were so capped. In this Senator's view, however, it still represents money that this country does not have and cannot afford to spend.

The administration agrees with the goals of this program, as does this Senator. Improving the delivery of services to children in need is important.

From my standpoint, and that of the administration, however, there are two problems with the provisions in the bill relating to child welfare services. First, the amount of money included in H.R. 11 is significantly greater than the amount of money the administration requested. It only requested $1.3 billion, one time. The program will spend several hundred million dollars a year, permanently.

Second, this proposal is significantly less flexible than what the administration requested. The administration wanted a block-grant States could use in the best way they saw fit. The bill's provision requires the money be used to improve a specific set of child welfare programs.

The final, and in many was most excessive, provisions included in this bill are those related to the expansion of individual retirement accounts. I am a supporter of IRA's and believe that they do provide an appropriate private savings vehicle for retirement for many Americans. But the inclusion of the Bentsen-Roth proposal in this bill goes way beyond what is either appropriate or which this country can reasonably afford given its current budgetary problems.

I am most troubled by three aspects of the $8 billion IRA provisions in the bill. First, some estimates of the outyear budgetary impact of these provisions estimate that the Federal Government may lose $10 to $15 billion per year after the first 5 years. This revenue loss will occur primarily because of the nondeductible but nontaxed interest accumulation of a new special IRA created by the bill.

Second, I believe the proposal is shifting away from an emphasis on savings for retirement. This proposal allows for contributions in the nondeductible IRA to be withdrawn after only 5 years. The proposal also allows for withdrawals for several worthy purchases or expenditures such as first-time homebuyers, education, and/or large medical bills. All of these are important purchases in the life of consumers. But any financial planner will tell you that savings for retirement must be above and beyond these expenditures. We should not be providing such easy access to a pot of money being saved for retirement.

Third, and most importantly, I believe the Federal Government needs to get its financial house in order. Instituting a new program which loses revenue, significant revenue in the outyears, is sending the country's taxpayers a mixed message. It is ridiculous to say to consumers, save, save, save while Uncle Sam continues to borrow and spend, spend, spend.

Mr. President, as I said, I will not support H.R. 11. I cannot justify voting for this bill just because of the few provisions of this bill which I support. I believe my constituents will understand that I must weigh the bill in its totality. And, as I have laid out above, in its totality, this bill does not, and will not, meet its stated goals of urban revitalization or economic growth and creates new entitlements and loses revenue for the Federal Government this country cannot afford.

Mr. SANFORD. Mr. President, I intend to support this tax legislation. It is certainly well intentioned. After the President vetoed the bill passed by the House and Senate last spring, the idea of wide-ranging tax legislation was largely put to rest for this session. The explosion in Los Angeles revived talk of new tax approaches to dealing with investment in inner cities.

In addition, there is broad support in both Houses for two other aspects of this bill, the so-called extenders and repeal of the luxury tax on boats. The tax credits that are expiring have proven track records. They are accomplishing what we want them to do. And most of us agree that they should be

extended. So, this bill contains legislation to extend those credits.

We have also learned from experience that the luxury tax did not accomplish what we wanted. It has almost killed the boat building industry in this country. It has raised very little revenue, and it has put thousands out of work at far greater cost to the U.S. Treasury than any revenue it was even intended to generate. Instead of generating revenues, this ill-conceived tax, which I opposed from the outset, took hard-working, highly skilled taxpayers off the rolls of those who pay taxes and put them on the rolls of those who receive unemployment or take service jobs at minimum wages. So, again, there was broad bipartisan support to repeal that tax.

The real estate industry has been in the doldrums for several years, but this bill extends the depreciable life of real estate which will probably put more construction workers out of work and push real estate values down even further. That, of course, will cause a further erosion in local government tax bases and in the value of portfolios at banks, savings and loans, and other financial institutions.

It is clearly not a perfect bill, but there are some important positive aspects such as the enterprise zones, the extenders, repeal of the luxury tax, the taxpayer bill of rights, a capital gains provision for seed capital for small companies, and IRA's to increase savings in our country.

It also includes a measure to streamline the welfare system that I have worked on with Senator HOLLINGS and others. This provision reduces administrative duplication and promotes better coordination between the Food Stamp, Aid to Families with Dependent Children, and Medicaid Programs.

Mr. President, we need to take a good, hard look at our tax system next year. It has clearly been a very important issue in the Presidential and congressional campaigns this year, and it is the primary fiscal tool the Government has to stimulate the economy. In the interim, this bill accomplishes many of the goals on which there has been little disagreement. I only hope that the President does not, for political reasons, veto this bill. That would have some devastating effects. For example, it would take the boating industry with it. It would eliminate many of the tax incentives in the code for hiring handicapped workers, for undertaking research and development, for employer provided educational assistance, for mortgage revenue bonds, for low-income housing, and for qualified small-issue bonds. In addition, a veto would eliminate both the provision equalizing the tax treatment relating to the deductibility of health insurance for the self-employed and the tax credit for first-time home buyers.

So, Mr. President, I will support this bill for the progress it represents.

Mr. LEVIN. Mr. President, the bill before us today is far from a perfect bill. But, it is good enough of a bill to vote for and send to a conference with the House of Representatives.

During consideration of it on the Senate floor, I voted in favor of the Bumpers amendment to strike the committee bill's requirement that individuals and small businesses make estimated tax payments of 120 percent of last year's liability if they thought they would be unable to accurately project and pay estimated taxes on 90 percent of the current year's tax liability. Many small businesses, in particular, find it difficult to project their income for the current year with a high degree of accuracy because it may depend on economic conditions that are both uncertain and beyond their control. Instead, they find the preceding year's tax liability a firm number upon which they can plan and make their estimated tax payments. It seems to me that what this 120-percent provision in the committee bill is really saying is, "try to do the very difficult; and if you can't do that, then give us (the U.S. Treasury) a large interest free loan." This provision is both overly burdensome and unfair.

Similarly, I voted in favor of the Simon amendment to strike the provision of the committee bill that would allow for the amortiztion of intangibles, including goodwill. It has been argued that this change in the Tax Code will encourage mergers and acquisitions In light of our experience in the 1980's, in which companies were crippled by borrowing to either engage in an acquisition or to fight one off, it would be unwise to make a change in the Tax Code now that could provide a further incentive in that direction. In addition, it is not at all clear what the basis is for the general assumption that the value of goodwill declines with time. I have serious doubts about changing the Tax Code to allow someone to take an economic loss based on such an assumption. In particular, I am troubled by the revenue loss acknowledged in the committee's own documents. By 1997 this provision will be costing the Treasury about $2 billion a year and growing.

It is my hope that these two provisions will be dropped from the bill in conference.

However, it is the many other provisions in this bill that I have long supported which allows me to vote to send this bill to conference in the hopes that it can be improved and sent to the President for his signature. In particular, I am pleased that this bill includes the temporary extension of incentives in the Tax Code for employer-provided educational assistance, for middle- and low-income housing, for research and development, for health insurance for the self-employed, and for job training. I would prefer that these provisions be made permanent because that would give individuals who utilize them the ability to more effectively plan and it would give the Government a more accurate picture of the actual revenue flow into and out of the Treasury over time. But, at a minimum we need to provide for the temporary extensions included in this bill.

I am also pleased that this bill includes a number of provisions that should provide a spark to the economy. Among them are the tax credit for first-time home buyers, the special depreciation allowance in the first year that equipment is purchased, the reform in the passive-loss rules on real estate, and the repeal of the luxury tax on boats, which has been particularly harmful to the boat manufacturers in my State of Michigan.

Furthermore, I believe that the economic development initiatives for distressed areas of our country that are contained in this bill have the potential for demonstrating the usefulness of new approaches to reversing years of decay and decline. Similarly, the foster care and welfare reforms included in this legislation are designed to put the Government on the side of stronger families and less dependency. The health care reforms that were attached by a floor amendment seek to address the problems that small businesses are encountering in providing health care to their employees. I am pleased to see at least some health care proposals enacted this year, although we should act quickly next year on a more comprehensive approach or else what we do today will just lead to cost-shifting among health care recipients.

My greatest frustration with this bill is the same that I felt with regard to the tax legislation that we passed earlier this year and which was vetoed by the President. I believe that this bill represents a missed opportunity for long-term deficit reduction, particularly by not making the wealthiest among us pay their fair share in taxes.

So, on balance, I support this bill. Let us pass it, send it to conference, improve it, and send it to the President. At some point, though, we will need to pass tax legislation that is part of a comprehensive approach to reducing the budget deficit if we are going to protect the long-term economic health of our country and the futures of our children.

DURABLE MEDICAL EQUIPMENT FRAUD AND ABUSE

Mr. SASSER. Mr. President, I support this amendment, and I am particularly pleased to note that it includes Medicare antifraud and abuse amendments which I originally introduced in S. 1736, the Medicare Durable Medical Equipment Patients Protection Act of 1991.

Senate passage of this legislation is the culmination of several months of investigative work by the Senate Budg-

et Committee and by the Senate Committee on Aging looking at the fraudulent and abusive Medicare billing practices of some, not all, medical equipment suppliers. I want to thank the chairman of the Finance Committee, Mr. BENTSEN, and also Mr. PRYOR, chairman of the Aging Committee and a member of the Finance Committee, for working so closely with me and with the Aging Committee ranking minority member, Senator COHEN, to see that this much-needed legislation was included in this amendment.

Mr. President, early in 1991, after a series of articles appeared in the Nashville Tennessean, the Senate Budget Committee began a series of hearings examining fraud and abuse in Medicare reimbursement for durable medical equipment and supplies. We found many problems. Unethical suppliers were forum shopping, searching for Medicare carriers with the highest reimbursement and most generous coverage and utilization policy. They were taking advantage of huge differences in payment rates from one part of the country to another. They were unbundling claims—billing for separate components of small items in order to maximize their payments. We found that some were avoiding detection for fraudulent and abusive billings by hiding behind several supplier numbers. We found some third-party payment agents depositing large caches of equipment and supplies in nursing homes, offering kickbacks to nursing homes for their business, and billing the Medicare program for it all. We heard of aggressive telemarketing schemes in which overpriced and unneeded equipment was sold to Medicare beneficiaries. There was a big problem, Mr. President, and it was clear we were wasting millions of dollars annually.

There has already been some progress on this issue. After our hearings and similar hearings held by the Senate Aging Committee, and after legislation was introduced, the Department of Health and Human Services issued new regulations which when fully implemented will help clean up a lot of this abusive billing. The number of Medicare carriers making payments for durable medical equipment and supplies will be reduced to only four throughout the country. The practice of forum shopping will be eliminated by this and a requirement that billing be based on the Medicare beneficiary's place of residence—so-called ZIP Code billing. In addition, much-needed controls will be placed on the issuance of supplier billing numbers, with new standards which must be met before a supplier can participate in the Medicare Program. These provisions were contained both in my bill and in Senator COHEN'S legislation.

The amendment before us today contains additional antifraud and abuse provisions contained in my earlier bill and in Senator COHEN'S bill which were not addressed by the recent regulations. We do intend to slow down implementation of these reforms already moving ahead. We have worked closely with the Department to achieve this goal, and the additional provisions in this amendment will strengthen, not impede, the progress we have already made.

The items in this amendment would address some additional supplier business standards which must be met in order to obtain a supplier number; require uniform national coverage and utilization review standards for 200 selected items of medical equipment and supplies; subject ostomy, tracheostomy, and urological supplies and surgical dressing and other supplies to national fee limits; prohibit multiple supplier billing numbers; require development of standardized certificates of medical necessity; modify the Medicare antikickback statute to make it clear that certain third-party billing arrangements with nursing homes for equipment and supplies violate the law; protect Medicare beneficiaries from financial liability for unnecessary equipment sold to them by a supplier who has been excluded from Medicare participation; and require a GAO study of the types, volume and utilization of medical equipment and supplies furnished by third-party billers to nursing homes.

Mr. President, I would also like to note that cooperation we have had throughout this process from groups representing ethical durable medical equipment suppliers. These amendments, and our earlier bills, have enjoyed support from the industry throughout this long process. I think that kind of cooperation, and the recognition that there have been some bad practices in the past, will contribute a lot to reducing Medicare waste and abuse.

HIGH MEDICARE HOSPITALS

Mr. MACK. Mr. President, I would like to make some remarks about an issue which was not addressed in the Medicare and Medicaid Amendments Act of 1992, but, nonetheless, is very important to my State and others. I speak of the plight of Medicare-dependent, or high Medicare hospitals. While this legislation addresses the issue of Medicare reimbursement for small rural Medicare dependent hospitals, it does not address the plight of other high Medicare hospitals.

Mr. President, I believe my colleagues are aware of my deep interest in, and concern for, the financial plight of high Medicare hospitals. Many of these hospitals are continuing to experience severely reduced, and in many cases, negative Medicare operating margins. These hospitals have little or no choice but to either cut back on medical personnel or consider the rationing of services. Additionally, when these hospitals attempt to cost shift, they become less competitive and risk losing the few non-Medicare payers they have.

Mr. President, when the Prospective Payment Assessment Commission [ProPAC] made its report to Congress in 1990, it stated the Medicare dependent hospital problem warranted further study. We have not seen this further study take place and I am aware the condition of many of these hospitals in my State and around the country continues to deteriorate. It is time for decisive action by ProPAC and by the Congress.

Mr. GRAHAM. Mr. President, I would like to echo the concerns of my colleague, Senator MACK. We have worked together for several years to address the needs of Medicare dependent facilities in our State and around the country.

As many of my colleagues know, Florida leads the Nation in the number of hospitals classified as high Medicare hospitals. Senator MACK, myself and the Florida Hospital Association would welcome a visit by ProPAC to Florida to study our high Medicare hospitals.

We hope the Congress will be prepared to act on legislation to address the special needs of these Medicare dependent hospitals in the 103d Congress.

Mr. BRADLEY. I agree with the Senators from Florida about the need to address the difficult financial situation faced by hospitals with a high percentage of Medicare patients. The Prospective Payment Review and Assessment Commission [ProPAC] has conducted a preliminary study and confirmed that these hospitals have a harder time financially than other hospitals. Although that study found some of these hospitals may be less efficient than others, the hospitals in New Jersey certainly do not fit that profile. The hospitals in New Jersey have high occupancy, low administrative costs, and provide efficient high quality of care to many of our senior citizens.

One hospital in particular, in Ocean County, NJ, has almost 70 percent of its patient days paid by Medicare. And under the State payment in New Jersey that was used as the model for the Medicare DRG system, we know that Medicare is not paying its full share. This shortfall unfairly punishes hospitals such as the one in Toms River, who are struggling to continue to meet the health care needs for the population they serve.

Unfortunately, during this session, we were unable to pass those provisions sponsored by my colleagues from Florida that would have provided more adequate payment for these hospitals. However, it is my intent to continue to push for an adequate response. I am optimistic, and I look forward to working with my colleagues to achieve our common goal of ensuring high quality

health care for our senior citizens under Medicare.

PHYSICIAN SELF-REFERRAL PROVISIONS MEDICARE AND MEDICAID AMENDMENTS

Mr. ADAMS. I would like to thank the manager of the bill, the esteemed chairman of the Finance Committee, for working with Senators METZENBAUM, BINGAMAN and me, to address our serious concerns regarding section 136 of S. 3274, the Medicare and Medicaid Amendments of 1992, the provisions dealing with the prohibitions on physician self-referrals under Medicare.

As the sponsors of S. 3186, the Ethics in Referrals and Billing Act of 1992, we are seeking to expand the prohibitions on the practices of physicians who refer patients to health entities in which they have a financial interest. We introduced S. 3186 because the evidence is clear that physician self-referrals drive up health care costs and result in unnecessary utilization of services. If we in Congress are serious about health care cost containment and unwarranted procedures, we must build upon the very modest ban on such practices currently in Medicare.

I understand the importance of exceptions to any statutory bans of physician referrals and S. 3186 includes a number of carefully drafted exceptions. I am concerned, however, that the provisions in section 136 unnecessarily broaden the exceptions currently provided for under Medicare.

Mr. METZENBAUM. I share the same concerns that Senator ADAMS has regarding the definition of group practice.

Mr. ADAMS. The most significant of our concerns is the proposed change in the definition of group practice found in section 136(c). I want to emphasize that this change in definition should be dropped; it represents a potentially huge loophole that would change the entire meaning of a group practice by allowing all manner of arrangements with physicians acting as independent contractors on a part-time basis.

Another major concern that I have is the proposed addition of an exception for "services under arrangements" in section 136(a)(6). This language is also much too broad and will likely lead to all kinds of unanticipated financial arrangements that are inconsistent with the intent of the law. This provision should be dropped in conference but if retained, the language must be tightened.

A third concern that I have is that the new exception for rural providers is much too broad. It is not enough that the clinical laboratory furnishing the services is located "in a rural area." At minimum, the provision should ensure that the services provided are provided substantially within the rural area. Otherwise, we can expect that clinics serving largely urban or suburban areas will be located on the edge of a rural area but will, in effect, mostly serve a nonrural area.

Mr. BENTSEN. I thank the Senators from Washington and Ohio for raising their concerns about the physician referral provisions in the bill. They have raised important questions and it is my intent to ensure that they are resolved in conference. I will insist in conference that the part-time and independent contractor issue be resolved in a different manner than changing the definition of group practice. My colleague from Washington also has my assurance that his other concerns about section 136 will be addressed by the Senate in conference and that I will work closely with him to achieve a satisfactory resolution to their concerns.

Mr. ADAMS. I thank the Senator from Texas for his attention to these matters and his commitment to resolving them in conference. I greatly appreciate his effort in ensuring that needed amendments to the Medicare and Medicaid programs are dealt with before we adjourn this Congress.

Mr. METZENBAUM. I also wish to express my appreciation to the Senator from Texas for his assurances that our concerns will be addressed by the Senate in the conference on this legislation.

REPEAL OF REDUCED MEDICARE PAYMENT PROVISION FOR "NEW PHYSICIANS"

Mr. MCCAIN. Mr. President, I want to thank the chairman, Senator BENTSEN, and the ranking member, Senator PACKWOOD for including in this bill legislation I introduced to end an inequity in the Medicare law. S. 2362, which I introduced on March 17, 1992 would eliminate discrimination in Medicare reimbursement practices for physicians. Current practices result in new physicians receiving less reimbursement for the same procedure than physicians who have been practicing for a longer period of time. The bill is identical to legislation sponsored in the House of Representatives by Congressman ED TOWNS.

S. 2362 enjoys the broad, bipartisan support of 32 Senators. I am pleased that the following Senators are cosponsors of S. 2362: Senators BROWN, BURNS, CHAFEE, COCHRAN, COHEN, CRAIG, DASCHLE, EXON, FOWLER, GLENN, GORTON, GRAHAM, GRASSLEY, HARKIN, HATFIELD, HELMS, HOLLINGS, JOHNSTON, KASTEN, LUGAR, MACK, MCCONNELL, MURKOWSKI, NICKLES, PRESSLER, SHELBY, SMITH, STEVENS, WALLOP, WARNER, WIRTH, and WOFFORD.

Specifically, this legislation would repeal the inequitable provision of existing law that reduces Medicare payment to so-called new physicians in their first 4 years of practice. With some limited exceptions, current law reduces the payment base or allowed amount by some 20 percent in the physician's first year of practice, 15 percent in the second year, 10 percent in the third, and 5 percent in the fourth year. My amendment would repeal this discriminatory law.

The rationale behind this law, which was enacted 2 years ago, was to achieve budget savings at the expense of young physicians and physicians new to providing care for Medicare beneficiaries, under the assumption that a new physician's services are of less value—and therefore less worthy of full compensation—than those of more experienced physician. However, the value of these physicians' services, as evidenced by the new Medicare physician payment system which bases reimbursement on a resource-based relative value scale [RBRVS], is not modified based on the experience of the physician providing the care.

Furthermore, the RBRVS assigns a value to each service—and that service does not cost those designated as new physicians any less to perform than physicians who have been in practice for a longer time. Under the current law, the definition of a new physician is so general and so vague that physicians who have served in the military for years, but have not previously billed the Medicare Program, are viewed as new physicians. Payments for their services to Medicare beneficiaries are reduced during the first 4 years of civilian private practice. Clearly, the existing law does not reward these dedicated physicians on a level commensurate with their experience,

The current law reducing payments to new physicians violates the underlying concepts behind the Medicare physician payment reform, which became effective as of January 1, 1992. It also ignores the financial reality facing new physicians of meeting high startup costs associated with building a new practice, and the skyrocketing costs of medical education.

The provisions of the current law serve only to discourage new physicians from certain targeted specialties and providing care for Medicare beneficiaries, as well as causing group practices to steer Medicare beneficiaries away from those physicians defined under the law as new.

Resolving this issue enjoys broad support in this body, and in the medical community. If enacted, it will ensure that all physicians are treated fairly, and corrects the inequities of the current law. Again, I thank the chairman and ranking member for recognizing the need to address this inequity, and pleased this legislation is being included in the underlying bill.

CORPORATE SPONSORSHIP

Mr. FORD. If the distinguished chairman of the committee, Senator BENTSEN, would yield, I wanted to raise an issue with him that is of great concern to several of my constituents. As the chairman is aware, section 8005 of H.R. 11, as reported, relates to the unrelated business income tax [UBIT] treatment of corporate sponsorship arrangements and tax exempt organizations. While I

applaud the chairman's effort to clarify what has become an interpretation nightmare for many of these organizations, I am concerned that the provisions of the Senate Finance bill may be overly restrictive for some tax exempt organizations.

In order to be exempt from UBIT, the Senate bill, as currently drafted, requires that net proceeds from the sponsored event be used for a charitable or educational purpose. However, the bill also provides that the safe harbor rule does not apply in the case where advertising or promotion is provided for the sponsor's products or services.

I am concerned that these provisions may result in certain events in my State being inadvertently subject to UBIT. It would appear that even if the tax exempt organization uses proceeds from a sponsored event consistent with their tax exempt status, or more directly, to forward their own exempt purposes, unless those purposes are charitable or educational in nature, the safe harbor rules will not apply. This is true even though current law does not require these tax exempt organizations to use their funds for charitable purposes.

Further, I am also concerned that the language precluding advertising and promotion of the sponsor's products or services may actually prohibit corporate-sponsored events. A tax exempt organization may be forced to forgo corporate sponsorship out of fear that media coverage and advertising of the event in general will kick the event out of the safe harbor rule.

I am aware that the House-passed provisions governing corporate sponsorship are significantly different from the Senate provisions. In the case of one of my constituents, I believe that the House-passed provisions provide the appropriate relief. I would encourage the distinguished chairman to consider the impact this provision would have on numerous tax exempt organizations which may directly, or indirectly, provide advertising or promotion for a sponsor's product or service, and on organizations which reinvest the proceeds of an event back into the organization to further its own purposes. It is not necessarily clear that such organizations would even be helped by the House-passed provisions.

I would encourage the distinguished chairman to consider this issue in conference.

Mr. McCONNELL. Mr. President, I want to address two technical matters pertaining to corporate sponsorship and the unrelated business income tax. It has come to my attention that language in the Senate version of H.R. 11 would significantly reduce the ability of tax-exempt organizations in my State to carry out events that significantly benefit the community and the industry which they represent.

As I understand it, section 8005 would require tax-exempt organizations to use the net proceeds from sponsorship payments for charitable purposes. This provision could put organizations in my state in a very difficult position.

I would like to point out that only 501(c)(3) organizations are required to use the net proceeds of sponsorship payments for charitable purposes. Current law does not require 501(c) (4), (5) or (6) organizations to use their funds for charitable purposes, but allows these funds to be used to further the exempt purposes of that organization.

I am hopeful that during the conference, members will consider alternatives that would remain consistent with current tax law and permit section 501(c) (4), (5) or (6) organizations to use the net proceeds raised in related events to further their own exempt purposes from which their tax exemption is derived.

In addition, Mr. President, I support the adoption of language contained in H.R. 5645, as passed by the House, regarding the use of corporate sponsorship payments by tax-exempt organizations. I believe that the Senate bill attempts to define too narrowly the forms of recognition which would not be subject to the unrelated business income tax. The House version, on the other hand, would widen the scope of recognition, thus better serving the industries and communities these organizations represent and serve. Without the opportunity to attract adequate funding, we will see a significant drop in the level of charitable contributions from these tax-exempt organizations.

Let me reiterate my support for consistent and fair tax treatment of all tax-exempt organizations. I am hopeful that during the conference on H.R. 11, these important issues will be addressed so that final language will provide a safe harbor exception on the use of sponsorship payments from unrelated business income tax.

Mr. President, I appreciate the chairman's favorable consideration of these issues.

Mr. BENTSEN. I say to my friends from Kentucky, that we are aware of these arguments. As they know, our staff have discussed this issue, in particular the impact this section would have on specific events in Kentucky, and I am aware of the Senator's concerns. The Senators are correct that the provision on corporate sponsorship differs from the House bill, and I can assure them that their concerns are noted and will be considered in the context of the conference on this measure.

Mr. FORD. I thank my good friend for his courtesies and consideration.

SOLE COMMUNITY JUSTICE ACT

Mr. DANFORTH. Mr. President, I would like to direct a question to the distinguished chairman of the Finance Committee, the Senator from Texas, concerning my legislation, S. 2996, the Sole Community Justice Act of 1992. As the chairman knows, I wanted this piece of legislation to be included in S. 3274, the legislation now before the Senate. He and I worked hard to include my bill in this legislation, but unfortunately, estimated revenue and technical constraints prevented action at this time.

I am very concerned that a certain small subgroup of other urban hospitals are not being treated equally with those rural and other urban hospitals that qualify for sole community hospital status. I have been of the view that correcting this inequity will be only of small cost to the Treasury, and the benefits of achieving equity for these hospitals far outweighs the cost of doing so. Unfortunately, certain analysts at the Health Care Financing Administration and the Congressional Budget Office believe the cost will be more substantial than I have been led to believe.

In fact, I have been told that the cost of this provision would be roughly $10 million a year. The Congressional Budget Office has estimated that the cost will be $38 million a year. My question for the chairman is the following: If I can persuade the Congressional Budget Office that the cost is closer to my figure than to theirs or if we pass a bill which is larger in scope next year, will the chairman work with me to have this provision included in the bill which emerges from the Finance Committee?

Mr. BENTSEN. I appreciate how strongly the Senator from Missouri feels about this legislation. I know he understands that the estimated costs prevented its inclusion in this amendment. It is my understanding that the Prospective Payment Assessment Commission is developing a data base that will supply the information needed by the Congressional Budget Office to provide a more accurate estimate of the cost of the Senator's legislation. I will continue to work with him to pursue a solution to the problem his legislation addresses.

Mr. DANFORTH. I thank the distinguished chairman and assure him that I will do everything that I can in the next year to see that all hospitals, whether in rural or other urban areas, which meet the reasonable criteria for sole community hospital status obtain that status.

PROGRESS ON IMPLEMENTATION OF THE ADOPTION AND FOSTER CARE ANALYSIS AND REPORTING SYSTEM

Mr. BINGAMAN. Our Nation's foster care, adoption, and child welfare system remains in dismal condition. Information gathered by the Senate Finance Committee and published in the CONGRESSIONAL RECORD on August 3 reveals that the number of our children in foster care has increased 50 percent in the last 5 years. The system seems to have lost perspective. It fails to acknowledge the fact that it is dealing with the lives of young, fragile, and

often abused or disabled children. They cannot be left to wallow in debilitating conditions while the bureaucracy languidly determines their fate. Children who, when they entered the system were adoptable, leave the system as special needs individuals, often due to physical abuse and emotional distress encountered in their foster environment.

Provisions under title VII, part I of H.R. 11 aim to improve the condition of our foster care, adoption, and child welfare services. Through identification of effective programming, encouragement of pilot programs, and improvement of Federal and State coordination, among other provisions, we attempt to remedy the ills that have rendered the system incapable of handling the dramatically increased numbers of children forced to leave their family homes.

However, the most fundamental problem with our children's services remains the lack of comprehensive data. Without a system of measuring or tracking our foster care, adoption and child welfare problems, we are attempting to devise solutions to problems which are not yet fully identified. In 1986 the chairman of the Finance Committee authored legislation which instructed the Department of Health and Human Services to establish a nationwide system of data collection. Public Law 99-509 gave HHS 5 years to appoint an Advisory Committee, evaluate the steps of establishing a data collection system, report to Congress and promulgate rules. Full implementation was to be completed October 1, 1991.

In the past 6 years, HHS has failed to follow the designated timetable. As evidenced in a June 10 hearing before the Senate Finance Committee, HHS could not provide a satisfactory explanation, but to say that there was a lack of due diligence. Now, HHS says, it has remedied that problem. However, the Secretary's final regulations have yet to be published—nearly 3 years after the established deadline. We have no indication when final implementation will fall into place.

I agree that the provisions contained in H.R. 11 to improve our foster care, adoption and child welfare system are laudable. However, I ask the support of my esteemed colleagues in insisting that HHS place final development of the national data collection system as a top priority. At this point, the thrust of the Department's energies must be in gathering pertinent information from the States. Only then can we reform our woeful—and, frankly, embarassing—national foster care, adoption, and child welfare system.

Quite simply, we are letting our youngest and most helpless American citizens down. It is time to forcefully insist that HHS provide us with a reliable data collection system. Until then, we will continue to wage war against an invisible enemy.

Mr. BENTSEN. I agree with my colleague's assertion that the HHS data collection system must rank as a top priority for the Department. That system, as well as an effective method of review, are paramount to ensuring that our children receive proper and humane treatment within our foster care, adoption, and child welfare system. As I pointed out during our committee hearing on June 10, the long HHS history of giving low priority to these programs must end.

CASUALTY LOSS EXCEPTION TO UNIFORM CAPITALIZATION RULE

Mr. BENTSEN. I would like to engage Senator PACKWOOD in a colloquy. I recall that in 1986, when the Senator was chairman of the Finance Committee, we enacted section 263A of the Tax Code to simplify tax compliance through the use of a set of capitalization rules. These capitalization rules required certain taxpayers, including a taxpayer engaged in the farming business, to capitalize both direct and indirect costs.

At that time, I recall that we also adopted an exception to the capitalization rule, section 263A(d)(2), to provide relief to taxpayers whose plants were lost by reason of freezing temperatures, disease, drought, pests or casualty. As the Senators know, recently many orchards, vineyards, and groves have been destroyed by catastrophic events. Hurricanes Andrew and Iniki not only destroyed homes and devastated buildings, but they also devastated the agricultural industry in southern Florida and Kauai, destroying local citrus groves and nut trees. The damage that has occurred will have a significant impact on the economy and the agricultural industry of those areas.

In addition, recent reports and stories have revealed the widespread infestation of phylloxera in the vineyards of Oregon, California, and Washington. As you know, this aphid-like louse, which is impervious to pesticides, destroys the roots of grapevines. I understand that the only way to eliminate phylloxera is to remove the vines and replant the vineyard with phylloxera-resistant roots. Although the full devastation is unknown, costs associated with replanting and lost production are estimated at $500 to $1 billion in Napa and Sonoma Counties alone. These costs could lead some wineries to go broke.

I am sure that there are many other catastrophic events destroying orchards, vineyards, and groves. Given the extent of recent damage and the economic hardship many of the farming businesses will face, I am concerned that if the exception to section 263A contained in paragraph (d)(2) of that section is interpreted too narrowly, it may have an unforeseen adverse affect on these farming businesses.

Is it the understanding of the Senator from Oregon that we intended the exception to permit taxpayers to deduct all costs otherwise subject to the capitalization requirements in section 263A or 263 if section 263A did not apply?

Mr. PACKWOOD. Yes; it is. The exception to section 263A contained in paragraph (d)(2) of that section is intended to apply to all costs otherwise subject to 263A, or 263 if section 263A does not apply, incurred as a result of freezing temperatures, disease, drought, pests, or casualty. The provision is intended to permit all replanting costs, not just reproductive costs associated with restoring orchards or groves to their original condition to be deductible.

For example, in the case of a citrus grove destroyed by a hurricane, the costs of site preparation, such as removal of old trees, the cost of new trees, and any labor costs incurred in replanting would be deductible under this exception, as would the costs of replacing underground irrigation pipes uprooted because of the storm. Similarly, in the case of vineyards destroyed by phylloxera B, preproductive costs, costs such as replacement vines, replanting of rootstocks, the purchase of trellis and drain tile and irrigation equipment solely to replace equipment, the removal of which was necessitated by the infestation, and the costs of land preparation, would all be deductible for under this exception. Of course, since it was the intention of this exception to place a taxpayer in the same position as before the loss occurred, we would assume the IRS would not permit a taxpayer to upgrade the vineyard, grove or orchard before the loss occurred. Similarly, we should also assume the IRS will prevent a double deduction from occurring under section 165(m).

SECTION 3006 OF H.R. 11

Mr. BOREN. Mr. President, it is my understanding that the bill includes a provision which requires real estate reporting persons, in connection with real estate transactions, to file information returns with the Internal Revenue Service and provide statements to customers regarding the portion of any real property tax credited to the purchaser of a piece of property.

Mr. BENTSEN. The Senator from Oklahoma is correct. This provision seeks to improve taxpayer compliance under existing law relating to the deduction of State and local real property taxes. For example, under current law, an individual selling his or her residence is required to offset any deductions for State and local property taxes by amounts received from the purchaser as reimbursements for such taxes already paid by the seller. In practice, individual taxpayers may fail to offset their deductions by those amounts. Requiring information re-

porting with respect to payments received by individuals selling residential real estate is expected to improve taxpayer compliance in this area. It is expected that this proration information would be provided by the real estate reporting person.

Mr. BOREN. It is my understanding that the chairman recognizes that some transfers made at the time of closing may subsequently be adjusted by, for example, a supplemental payment due to a change in the property tax rate, and that the real estate reporting person may be unable to accurately project actual tax payments made subsequent to the closing. Thus, in some cases, the proration number used may not be the same as the actual real property tax payment. I am sure the chairman can appreciate my interest in this provision; with the current low-interest rates, there are a large number of real estate transactions in Oklahoma.

Mr. BENTSEN. I appreciate my distinguished colleague's comments. It is the committee's expectation that the real estate reporting person will be required to report any real property tax that is treated as tax imposed on the purchaser by reference to specified line items of the HUD–1 form or any comparable form provided at the time of the closing of the transaction. Because the buyer and seller typically are acting at arm's length with respect to amounts affecting the sales proceeds, it is likely that these estimated amounts will be reasonably accurate. It is not expected that collection of additional information after the closing occurs will be required. In light of this, it is not expected that a real estate reporting person, acting in good faith, will be subject to penalties for correctly reporting the appropriate number from the HUD–1 disclosure form or comparable form in a case in which that number is later determined in fact to have been inaccurate. In addition, it is anticipated that Treasury will promptly provide guidance with respect to the reporting requirement in the bill.

Mr. BOREN. I thank the distinguished chairman of the Finance Committee for this clarification.

HEDGING TRANSACTIONS

Mr. DOLE. Mr. President, the Supreme Court's decision in Arkansas Best Corp. versus Commissioner has caused serious disruptions in the ability of farmers, ranchers, and other businesses, both in agriculture and elsewhere in our economy, to use hedging transactions to reduce the risks of doing business. The problem results from a question as to the remaining scope of the Supreme Court's earlier Corn Products decision.

THE PROBLEM

The principal tax problem is a possible claim by the IRS that certain business hedges produce capital losses. A business whose normal operations produce ordinary income is severely disadvantaged if losses from hedges are treated as capital rather than ordinary. The disadvantage results from the fact that capital losses can be deducted only against capital gain and, in the case of individuals, $3,000 of ordinary income.

Under the Internal Revenue Code, a gain or loss is capital rather than ordinary if it results from a sale or exchange of property that is categorized as a capital asset. The Code defines capital asset as property held by the taxpayer whether or not connected with its trade or business. An express exception to this definition is provided for inventory or other property held primarily for sale to customers in the ordinary course of business.

Historically, the loss on short futures contracts used in business hedges has been treated generally as ordinary rather than capital, even though the futures contracts themselves are not inventory nor other property held primarily for sale to customers in the ordinary course of business. There have been various rationales for ordinary treatment. At one time, hedging losses were treated simply as a form of business insurance expense rather than a loss from the sale or exchange of property.

Another rationale, derived from the 1955 decision of the Supreme Court in *Corn Products Refining Co.* v. *Commissioner*, 350 U.S. 46 (1955), is that loss from a sale or exchange of property is ordinary, notwithstanding the inapplicability of any of the express Code exceptions to capital asset status, so long as the transaction arises from the everyday business operations of the taxpayer.

In Corn Products, a corn products manufacturer, to protect itself against increases in the price of corn, entered into long corn futures positions, accepting delivery in some cases and in other cases offsetting its futures positions upon spot purchases of corn. The company reported gains on the futures contracts as capital to take advantage of the more favorable capital gains rates available at that time. The Supreme Court held that Corn Products' futures activities "constituted an integral part of its manufacturing business" and, like other aspects of the taxpayer's business, should give rise to ordinary income or loss rather than capital gain or loss.

The basic tax rules for hedging remained relatively clear for 32 years following the Corn Products decision. Then, the Supreme Court, in Arkansas Best, held that a taxpayer could not claim a ordinary loss from the sale of subsidiary stock that had purportedly been acquired for the purpose of preserving the business reputation of the taxpayer.

Arkansas Best argued that, although the stock of its subsidiary fell within the literal definition of a capital asset, the stock should be treated as an ordinary asset under Corn Products because it was acquired for integral business purposes rather than investment. The Supreme Court disagreed, rejecting the argument that there is an implicit integral business purpose exception, in addition to the express Code exceptions, to the capital asset definition. The Court interpreted Corn Products narrowly as involving an application of the Code's express inventory exception since the futures positions were "an integral part of the taxpayer's inventory purchase system" serving as "substitutes for the corn inventory."

Although Arkansas Best did not involve hedging, the Court's comments on Corn Products have been interpreted by some to apply to business hedges. In particular, some at the IRS read Arkansas Best as treating property as a capital asset, thereby resulting in capital gain or loss upon a sale or exchange, unless the property is inventory or otherwise expressly excepted from the capital asset definition in the Code.

POSSIBLE APPLICATIONS OF ARKANSAS BEST

Since the release of the Arkansas Best opinion, business hedging practices have been subjected to increased IRS audit activity. The audit results vary, depending upon the particular kinds of hedging practices involved and the views of local IRS personnel.

Mr. President, inventory and other hedges, are important risk management tools for farmers and other businesses. The potential for adverse positions taken by the IRS based on a broad reading of Arkansas Best on hedging practices can have a devastating impact on reasonable business activities. Let me list a few examples to emphasize the nature of the problem.

INVENTORY HEDGES

One typical hedge transaction used in the normal course of business is a long inventory hedge. For example, assume that a soybean crusher buys a long soybean futures contract to protect itself against an increase in the price of soybeans to be acquired as part of its raw materials inventory. Even after Arkansas Best, a loss, or gain, of the soybeans futures should be ordinary because the futures are substitutes for an inventory of soybeans just as corn futures served as a substitute for the corn inventory in the Supreme Court's reading of Corn Products.

Similarly, if a cattle producer buys a long futures contract to protect himself against an increase in the price of cattle feed, gain or loss on the futures contract should be ordinary in order to match properly with the ordinary income resulting from the subsequent sale of the cattle.

Another typical hedge transaction is a short inventory hedge. Assume, as in the earlier example, that a cattle

rancher sells a short cattle futures contract to protect himself against a decline in the sales price of his physical cattle. Ordinary treatment is somewhat more problematical for this example, as compared with the long inventory hedge, because a short futures contract is more difficult to fit within the inventory substitute category. Read on its narrowest terms, Arkansas Best could be interpreted as limiting ordinary treatment to long hedges of inventories. Such a narrow reading, however, would ignore the historical context of the Corn Products case. Even before Corn Products, bona fide hedges of long inventory positions through short futures positions or forward sales were generally viewed as nonstatutory exceptions to capital asset treatment.

Often, a farmer, cattle producer, or other business may use combinations of long and short futures contracts to reduce the costs of protecting against the risk of price changes of their production. Additionally, there may not be a perfect match between the quantity of the futures contracts and the physical inventory at any particular point in time. The particular contract months used for hedging purposes may depend upon such factors as the anticipated time for bringing the livestock or other production to market, the contract months in which futures are traded, and the price relationships among contract months. Futures contracts may not even be available for every month in which livestock or other production is to be brought to market or there may be insufficient market liquidity in particular delivery months or commodities. I believe that if the businessman's futures contracts reduce risk of price changes and substitute for past or anticipated production of inventory property, gain or loss with respect to such contracts should be ordinary in character.

On the other hand, futures contracts representing amounts substantially in excess of past or anticipated production may give rise to capital gain or loss. Such contracts may be speculative in nature and not an integral part of the business.

OPTIONS HEDGING STRATEGIES

In addition to the hedging strategies I have described using futures contracts, many farmers and other businessmen use options to hedge against price fluctuations in their business. Let me give a few examples of these types of transactions.

Assume, for instance, a cattle rancher buys a put option on cattle futures at a strike price of $0.70 per pound to protect himself against a decline in cattle prices. As in the case of a short futures contract, a put option does not fit neatly within a inventory substitute category. However, I think it should be clear that ordinary treatment is correct.

Let me give my colleagues a slightly more complicated, but very common example. Assume that the rancher not only buys a put option at a strike price of $0.70 per pound but also sells a call option at a strike price of $0.80 per pound. In effect, the rancher is protecting himself against a decline in cattle prices below $0.70 per pound and is reducing the net cost, that is, premiums paid less premiums received of that price protection by selling the upside cattle price potential in excess of $0.80 per pound. In my opinion, the put and call in this transaction should be considered together and should both result in ordinary treatment. However, it appears that in some instances the IRS is treating the call option as a separate transaction and classifying call gain or loss as capital. This is contrary to the purpose of the transaction as an intrinsic part of the business of cattle production.

RESPONSES TO PROBLEM

It is important for the U.S. economy that our farmers and other businesses be able to manage effectively the financial risks they face. To this end, legitimate hedging activities should not be hindered by tax uncertainty and uneconomic treatment of hedging gains or losses. Business hedges of activities generating ordinary income or loss should also give rise to ordinary income or loss.

Mr. President, I note that in at least two places in the pending legislation, there are provisions which specify the character of gain or loss as ordinary in order to avoid any possibility that Arkansas Best could be used to characterize gain or loss as capital in charter. These provisions are contained in the mark-to-market rules for securities dealers and the mark-to-market rules for certain insurance contracts. It probably would make more sense to enact a generic rule that would provide certainty rather than to single out one or two industries and provide them with statutory assurances.

However, an administrative clarification would help the uneven application of current law. The Treasury Department is well aware of the uncertainties created by Arkansas Best and has listed this issue as a priority for action this year. I also understand that IRS staff may be working on regulations or rulings to address Arkansas Best issues. I would urge that Treasury and IRS move forward with guidance in this area.

Mr. President, the objective of all the parties involved in the process should be the removal of tax impediments to sound business hedging practices. I would like to ask the distinguished chairman of the Finance Committee if he shares my concern about the adverse impact of the uncertainty created by the interpretation of the Arkansas Best decision by some at the IRS and the need to address the issue in some fashion.

Mr. BENTSEN. I thank the distinguished Republican leader for his description of potential problems posed by some interpretations of the scope of the Arkansas Best decision. This is a matter of concern for me as well. You have provided our colleagues with several examples that point out the uncertainty that may be experienced in business hedging transactions—even in transactions that are not speculative in nature but are undertaken to minimize the risks of doing business and are intrinsic to the conduct of that business. Unfortunately, uncertainty in this area can have a dampening effect on taxpayers entering into desirable business hedging transactions. I think this is a significant issue, and it is my hope that appropriate steps can be taken to address this matter.

R&D TAX CREDIT

Mr. RIEGLE. Mr. President, I strongly support the extension of the R&D tax credit that is contained in H.R. 11. I commend the work that the chairman, along with Senators DANFORTH and BAUCUS, have done to promote the credit. Greater investment in research and development is absolutely vital in order to ensure that we are able to compete in the global marketplace and I favor permanent extension of the R&D credit.

Unfortunately, despite our efforts, a variety of factors have caused the level of R&D done in the United States to decline. More and more research is being done overseas by U.S. companies. We must examine ways in which we can do more to promote R&D.

We could significantly improve the credit by encouraging collaborative research and development along the lines of S. 2049, the Cooperative R&D Tax Credit Act of 1991, introduced by my colleague from Connecticut, Senator LIEBERMAN. Legislation like S. 2049 would provide a powerful incentive to industry-led R&D through consortia. This legislation would allow qualified cooperative R&D costs to be eligible for either a 50-percent tax credit or the existing 20-percent tax credit for incremental in-house research.

At the same time, I want to emphasize that cooperative R&D credit would enhance the existing credit.

Mr. DANFORTH. Mr. President, I agree fully with the need to provide strong incentives for R&D. Since 1981, when the credit was first adopted, I have worked with my colleagues to strengthen the credit.

R&D is the down payment on America's future competitiveness. Without adequate R&D, our industries eventually lose the race for discoveries that are the basis for new products, new services, market share, and ultimately, would influence. We cannot let this occur.

One means to increase R&D is to remove the uncertainties of a limited extension by making it permanent. I also

believe that a modification to the credit that would provide a greater reward for industry-led collaborative R&D has considerable merit and should be examined.

There are several policy goals that the current section 41 credit seeks to fulfill. First, the credit is designed to stimulate new research. Second, the credit balances the social rate of return or, in other words, it balances the benefit that is received by society with that benefit that goes to an individual firm. Third, the credit helps to offset similar subsidies provided to business by our economic competitors.

A cooperative R&D tax credit strongly advances these policy goals and, at the same time, encourages the most efficient use of R&D funds. A cooperative credit leverages scarce research dollars, and spreads risks and costs that encourage new research that would not be conducted without this incentive.

Mr. GRASSLEY. I agree in substance with the Senator from Michigan and the Senator from Missouri. United States tax policy should support a cooperative R&D tax credit at a level equal to its importance to industry and to our Nation. A cooperative R&D tax credit would not only help firms compete against one another, but help our industries pull together to meet a broader global challenge.

Mr. LIEBERMAN. It is time that we considered making the R&D tax credit available for collaborative measures. Our system of credits has been helpful in stimulating R&D, but we will be able to better leverage R&D efforts with a credit for collaboration.

The cooperative tax credit should help to increase R&D efforts. My proposal would allow companies to receive a 50-percent flat credit, determined on a nonincremental basis, for contributions to qualified consortia. Qualified cooperative research consortia are those organizations which have five or more contributors and are registered under the National Cooperative Research Act of 1984 [NCRA].

NCRA, the Stevenson-Wydler Technology Act of 1980, the Federal Technology Transfer Act of 1986, and the 1988 Trade Act all increased the incentives for American companies to engage in collaborative research. Approximately 200 industry consortia have been established under NCRA, and new groups continue to form. This credit is a logical step in increasing R&D and encouraging collaborative efforts by American industry.

Mr. BAUCUS. I would like to raise one additional point from the perspective of small business. While the credit was improved by making it available to startup firms, the Tax Code works against small firms by discouraging cooperative research.

While small firms frequently lead in innovation, they often lack the amount of resources needed to learn about and assimilate new processes. By collaborating with large firms, small firms gain access to new technology faster. However, cooperative ventures are classified as outside contract expenses, which are generally only 65 percent creditable, creating a disincentive to collaborate for smaller firms operating within close margins.

A cooperative credit would integrate will with the current goals of our tax policy and would enable firms to better recapture profits from R&D expenses.

Cooperation offers a cost effective alternative to otherwise duplicative R&D such as some R&D conducted to meet safety, environmental, or health standards. The cooperative credit will advance the underlying goals of section 41 by ensuring the research is conducted in the United States.

Mr. BENTSEN. I believe that we should explore all proposals to increase the competitiveness of U.S. industry. One of the key elements of our national strategy must be to pursue a tax policy that encourages cooperative partnerships, especially in research and development and technology transfer. I look forward to examining all tax proposals designed to encourage collaborative research ventures.

REPEALING MANDATORY 20-PERCENT WITHHOLDING ON IRA'S

Mr. HELMS. Mr. President, earlier this month I was made aware of a major problem with the way the most recent extension of unemployment insurance benefits are financed. At issue is a provision of Public Law 102-318, passed by the Senate and enacted into law while I was in Raleigh following heart surgery.

Here is the situation: Approximately $2.1 billion of the cost of extending these benefits was offset by changes in the tax treatment of IRA's, including a mandatory 20 percent withholding on any IRA not rolled over directly from one financial institution to another.

The bottom line, is that these changes in IRA tax treatment will have an adverse impact on retirees and other individuals while not raising the amount of funds initially believed to be the case when Public Law 102-318 was enacted.

Mr. President, I do not care to delay final passage of H.R. 11, so I ask that my complete statement be entered in the RECORD at the conclusion of this colloquy. But, I do feel strongly that this new 20-percent withholding should be repealed and I hope the managers will do what they can to address this problem.

Mr. PACKWOOD. Mr. President, I share the concern of the Senator from North Carolina regarding the new 20-percent withholding provisions. I will be glad to work in the conference to see if this problem can be addressed in some fashion in the conference report. And, if that does not work, I would be glad to work with him and the chairman of the committee [Mr. BENTSEN] to put together hearings when the Congress returns, at which this issue may be examined in a comprehensive fashion.

Mr. BENTSEN. Mr. President, as the Senator from North Carolina knows, this proposal originated in the President's pension simplification proposal. We certainly must make sure that people understand the new provision so that they are not caught unaware. I will be glad to work with both Senators next year to make sure that this provision does not have unintended results on retirement security.

Mr. HELMS. Mr. President, I thank the chairman and ranking member of the Finance Committee for their courtesy.

IRA WITHHOLDING PROVISION

Mr. President, Senators who may not have heard from irate constituents regarding the new 20-percent withholding provision for IRA's may be interested in a brief review of how this new law works. Here is the problem:

First, if you leave your job and go to work for another employer, or find another qualified IRA into which you can transfer your pension, you can avoid government withholding if you ask your employer to transfer your IRA before you leave the job.

Employers in my State tell me that the IRS has yet to tell them what paperwork will be required by the IRS to do this.

But this, Mr. President, is not the biggest problem.

Second, if you leave your job and fail to instruct your employer before you leave to transfer your IRA, you receive upon termination a lump sum check minus 20-percent withholding.

Therefore any employee who leaves his or her job on short notice is going to have the IRS withhold 20 percent of their pension regardless of his or her tax bracket.

Third, let's assume you leave your job, do not tell your employee before you leave to transfer your IRA, and receive your lump sum check for 80 percent of your pension—remember, the IRS takes 20 percent off the top for withholding.

To avoid being taxed for an early withdrawal from your old IRA, you must put 100 percent of your lump sum into another IRA within 60 days of leaving you job. You will be taxed on anything short of the 100 percent you put into the new IRA.

But remember, you do not have in hand 100 percent. You have only 80 percent since the IRS withheld 20 percent.

So in order to avoid being taxed for an IRA withdrawal, you must put the 80 percent into the IRA and add 20 percent—if you have—to that. Otherwise, the IRS will tax you on the 20 percent the IRS withheld as if you made an IRA withdrawal.

Mr. President, this particular problem was brought to my attention by

Mrs. Louise S. Stephenson of Raleigh, NC. Mrs. Stephenson, or "Scottie" as she is known to her friends, is one of the brightest people I know. So, when Scottie believes something the Government is doing is amiss, I take it very seriously.

Indeed, Scottie provided me in a letter giving perhaps the clearest explanation I have yet seen on this problem. I ask unanimous consent that her letter be printed in the RECORD at this point.

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

CAPITOL BROADCASTING CO., INC.,
Raleigh, NC, August 26, 1992.

Senator JESSE HELMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR: Thank you so much for putting me in touch with the folks who are trying to deal with the legislation we discussed yesterday. It was very helpful to me to talk with your staff and the staff of the Finance Committee.

As I understood the Finance Committee staffperson, the 20% withholding tax to be imposed on all of our Profit Sharing transactions is "merely a payroll deduction thing—pay as you go." There seems to have been some problems with retirees taking all of their proceeds and not paying income tax—"forgetting" or some such. (God knows there are enough safeguards already in place to deal with this. Every cent is reported to the IRS through estimated tax reports, W-2Ps, etc., to alert them to the existence of a tax liability.) And 20% was selected "because it is somewhere between 15% and 31%, the minimum and maximum tax rates."

These funds are not a new source of tax revenue. The government always gets its share whether it is from the distribution itself, income tax paid the next year, IRA wind-down, or through minimum distributions. The new tax grab puts it up front, it is arbitrary in its amount and, in my opinion, will generate a large increase in IRS refunds the following year. I wonder if this expense was taken into account when the revenue potential was projected? Was the cost of setting up the Washington machinery to administer it deducted from expected returns? Based on my discussion with Finance Committee staff, just about everything in the bill as presently written has to be "fixed" before any of it will work.

In addition to the considerable inconvenience caused to retirees, we have major concerns about distributions to terminating younger employees. John Doe is leaving. He has $15,000 in his retirement account. The law would force us to withhold $3,000 federal income tax regardless of what his actual liability might be—let's say 5% to 10%. He will have to wait until the following year to file for a refund. He will owe 10% penalty, too, for early withdrawal (unless he elects to rollover into an IRA all of his funds prior to termination—something the younger participants rarely do). If he happens to reside in Virginia, there's a law which says we take out Virginia's income tax, too, if the Feds get theirs. He'll be lucky to have $10,000 when the tax dust settles.

Another concern is the employee who wants to buy his own home and he's not terminating. Now he can access all of his 401k money except its earnings if he documents the amount requested as the actual need. Under present law he wouldn't request federal tax withholding because he will have offsetting interest deductions at income tax filing time. He will only have the 10% penalty now imposed for early withdrawal. Under the new law this fellow is going to pay 20% up front and wait maybe as long as 15 months to get it back when he needs it now.

Again, thank you for your good help. I hope we can prevail—just once. Congress needs to encourage retirement plans and stop targeting them as a convenient revenue source. It's a sad state of affairs when unemployment checks become the responsibility of folks retiring from the workforce. The unemployment funding extension is the sixth assault in as many years on our relatively straight-forward Profit Sharing Plan. Enough is enough!

Cordially,

(MRS.) LOUISE S. STEPHENSON,
Member, Administrative Committee,
CBC Cash or Deferred Profit Sharing Plan.

Mr. HELMS. Mr. President, as Mrs. Stephenson points out, this is a disaster waiting to happen. But there is more:

When Congress initially considered this new withholding provision, the Joint Tax Committee estimated it would raise $2.17 billion in fiscal year 1993. However, a closer look at this figure discloses that it is widely optimistic, and that, in reality, the revenue increase will amount to only a fraction of the $2.17 billion estimate.

In fact, David Langer, a consulting actuary in New York, calculated that $2.143 billion in additional tax revenues would require $10.7 billion in IRA distributions subject to the 20-percent withholding. As Mr. Langer points out, this is on the high side. Some people will no doubt figure out the 20-percent withholding may be avoided by either making a direct transfer—option No. 11 mentioned earlier—leaving money in the plan or making periodic withdrawals.

In addition, many individuals who are subjected to the 20 percent withholding will likely be in a lower tax bracket. Indeed, as Scottie pointed out to me the other day, the usual withholding called for by the IRS is only 5 percent.

Those falling below the 20 percent will have their withheld funds refunded when they file taxes for the year. So, the supposed increase in revenue will in fact be but a loan as opposed to a permanent infusion.

Because of the aforementioned factors, Mr. Langer estimates that instead of raising the estimated $2.143 billion, the provision will actually raise only $86 million.

The irony, Mr. President, is that in raising so little money, these new withholding provisions greatly inconvenience employees as well as the businesses on which the burden of implementing these provisions will fall. In fact, David Langer estimates that the cost to businesses of implementing these changes will amount to more than $4 billion over 5 years.

Mr. President, to set the record straight as to the real costs and benefits of the new withholding provisions, I ask unanimous consent that a report on David Langer's study, and a reprint of an interview with Mr. Langer, be printed in the RECORD at the conclusion of my remarks.

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

[From Daily Tax Report, Aug. 4, 1992]

WITHHOLDING, DIRECT TRANSFER AMENDMENTS SEEN COSTING EMPLOYERS OVER $4 BILLION

The total cost to employers of the employee benefit provisions included in the Unemployment Compensation Amendments Act of 1992 (PL 102-318) may amount to more than $4 billion over the five-year budget period, more than double the amount estimated to be gained in revenue from the provisions, a pension actuary estimated.

The Senate and House passed the bill July 2 and it was signed into law by the president July 3 (130 DTR G-5, 7/792). The benefit changes in the law liberalized rollover rules, required qualified plans to permit participants to elect to have any distribution eligible for rollover treatment transferred directly tax-free into an individual retirement account or another qualified plan, and imposed a 20 percent mandatory withholding charge on any distributions not rolled over.

According to David Langer, a consulting actuary with David Langer Co. Inc., New York, the law's approximate start-up costs amount to $1,500 per plan for making plan amendments to allow trustee-to-trustee transfers and for reviewing the plan to ensure compliance with the law, Langer told ENA July 29. The amendments are required as a qualification issue, Langer explained.

Once amendments are made, annual administration of the new requirements may amount to approximately $1,000 a year per plan for additional staff time to carry out the direct transfers and filling out the additional paperwork associated with the direct transfers and the withholding requirements of the law, Langer estimated.

Estimating that there may be roughly 600,000 defined contribution plans and 100,000 defined benefit plans that currently allow lump sum distributions and would therefore have to comply with the law, the total start-up cost would be $1.05 billion and the annual cost of administration would be $0.7 billion, Langer said.

That brings the total cost of compliance with the law to $4.55 billion over the five-year period used by the Joint Committee on Taxation staff to estimate revenue gains and losses from tax laws, Langer said.

The JCT staff estimated that the withholding provisions of the law would result in an increase in revenue to the federal government of $2.17 billion over that same five years. According to Langer, it would have been more efficient and a lot cheaper for plan sponsors had the $2.147 billion in desired additional revenue been raised by a charge of about $15 per year per participant, he said.

RESPONSE

"There's a lot more going on here that is beneficial to the participant"—including an extensive expansion of the ability to roll over funds from one qualified plan to another, a Senate aide told BNA July 31.

"It is a pro-participant proposal," the aide added. "We are forcing the employers to do the work in order to preserve participant retirement savings," the aide said.

Langer also suggests that the $2.147 billion JCT staff revenue estimate might be optimistic. To have $2.143 billion in additional collections in 1993, as estimated by the committee, would require $10.7 billion in distributions that are subject to the 20 percent withholding, Langer asserted.

Langer questioned whether $10.7 billion is a reasonable expectation given that there will be a number of ways to avoid paying the 20 percent withholding, including making a direct transfer (as is intended by the law), leaving money in the plan, or making periodic withdrawals, he explained.

Even if the expectation of having $10.7 billion in distributions subject to withholding is reasonable, Langer questioned whether that money should be counted as revenue. According to Langer, the amount should not be counted as additional federal revenue because it is, in effect, a forced interest-free loan to the Treasury of about one year's duration, he said.

The Treasury may collect $2.143 billion in 1993, but much of what is collected would have to be refunded at the beginning of 1994 when taxpayers file their tax returns, Langer said. The only benefit to the Treasury is the savings from reducing its 1993 sale of Treasury bills, he said. At an approximate 4 percent interest rate, the government would realize a one-time savings of approximately $86 million in 1993, he said.

[From David Langer Co., Inc., Consulting Actuaries, Aug. 10, 1992]

NEW LAW ASKS EMPLOYERS TO SPEND $4.55 BILLION, BUT IT WILL RAISE ONLY $86 MILLION; DETAILED ANALYSIS OF THE NEW 20 PERCENT TAX WITHHOLDING AND ROLLOVER RULES

The new 20% tax withholding and rollover rules are effective starting in 1993. They will require changes in plans and in the materials and explanations given participants under practically all defined contribution plans and many defined benefit plans. The Bureau of National Affairs interviewed David Langer on the cost and revenue aspects of the new law, and a copy of the report that appeared on August 4 in the BNA Daily Tax Report is enclosed. In brief, the Joint Committee on Taxation staff estimated that the law would raise $2.1 billion, but Langer sees only $86 million arising in additional revenue. Further, he predicted that the five year outlay by employers to set up and administer the law would come to $4.55 billion.

We discuss below how distributions are to be treated under the rules, the action to be taken, and problems that, hopefully, will be clarified by technical corrections or regulations.

DETERMINATION OF TYPE OF DISTRIBUTION

Distributions are basically divided into three types. In order to apply the new rollover and tax rules, a plan administrator must first determine the type of the distribution (note that a participant's benefit may consist of more than one type).

Non-taxable distribution: Any payment that is not otherwise includible in gross income, e.g., a return of after-tax employee contributions.

Taxable rolloverable distribution: Any taxable payment that is not part of an annuity of approximately equal amounts payable for life or a period of 10 years or more and that is not a minimum required distribution. These are "eligible rollover distributions".

Taxable non-rolloverable distribution: Either a payment which is part of an annuity for life or for 10 years or more, or any payment that is a minimum required distribution.

TAXES

Under the old law, all taxable distributions were subject to withholding, but a participant could elect to waive withholding. Under the new law, the amount to be withheld depends on the type of taxable distribution. (Non-taxable distributions are, of course, not subject to withholding.)

Rolloverable: 20% withholding is required, unless the participant directs the plan's trustee to transfer the distribution directly to the trustee of an IRA or to a defined contribution plan that allows such transfers.

Non-rolloverable: Old law withholding still applies. Taxes on periodic payments are therefore withheld as if the participant is married with 3 dependents and on non-periodic payments at the rate of 10%. Withholding may be waived or the rate of withholding changed. The old law rules apply to all types of distributions from IRAs.

NOTICES

Plans that provide for benefit payment methods that qualify as eligible rollover distributions must allow a participant to request that the benefit be directly transferred and therefore avoid tax withholding. The Trustees, prior to the date benefits are paid, are to provide participants with a notice stating that unless the participant requests a direct transfer, taxes will be withheld at the 20% rate. The IRS is expected to prescribe model notice language. Forms currently given participants must therefore be revised to include this and eliminate the current waiver of taxes for all but non-rolloverable distributions. The notice should be given to the participant with the benefit election form, so that time is available to make a decision before payment is made.

The notice must also describe the information the participant has to give the plan trustee in order to effect a transfer. The participant must choose an IRA or eligible plan and give the plan trustee payment instructions. According to the Committee report, the trustee is not required to confirm the information. Notices must continue to inform the participant of the right to roll over the distribution within 60 days of payment, if not directly transferred, and when a distribution may be eligible for favorable tax treatment. Participants receiving a non-rolloverable distribution will still have to receive a notice of right to waive or change withholding.

ROLLOVERS

Under the old law, in order to be eligible for a rollover, a distribution had to be in one of the following forms: (a) the entire balance of the participant's account, paid in one tax year due to termination, death, disability, or after attainment of age 59½, or (b) received due to plan termination, or (c) at least 50 percent of the participant's total account payable due to termination, death, or disability.

The new law will simplify rollovers in the following ways:

Any taxable rolloverable distribution can be rolled over (within 60 days of receipt if not directly transferred).

The distribution does not need to be entire balance to the participant's account or paid completely in one tax year.

Complex rules that limited the ability to roll over a lump sum payment were eliminated. It is no longer necessary to combine like plans of an employer in order to determine whether a distribution is the entire balance and therefore eligible for rollover. A distribution can now be rolled over whether or not any benefits were paid prior to, or will be paid after, the distribution, as long as the distribution is not part of an annuity. Many subtle restrictions were eliminated.

ACTION TO BE TAKEN

Employers must do the following:

Revise notices to be given to participants upon termination of employment. Plans must be operated in compliance with the law beginning on January 1, 1993.

Review benefits already in pay status to see if any retiree must be given notices and the withholding levels changed. For example, if benefits are already being paid out over 5 years, the withholding and right to rollover has changed for post-12/31/92 payments.

Amend the plan within the 1994 Plan Year.

Consider announcing the change to participants even though a Summary of Material Modification is not required until the plan is amended.

QUESTIONS AND PROBLEMS

There are many questions and problems that IRS or Congress will have to address before the end of the year.

If part of a benefit payment is a rolloverable distribution and part is non-rolloverable, then each part is subject to different withholding rates, different explanations of rights, and possibly different payees. This can occur, for example if part of a lump sum payout is a minimum required distribution which cannot be rolled over, or if a participant elects an annuity from an employer-provided account and a lump sum from an elective account.

There doesn't seem to be any limit on the number of IRAs a participant can request transfer to, so that the plan trustee may have to make multiple transfers.

If a participant is receiving a monthly or annual benefit over a period under 10 years, does the participant have to be given the required notice and provide new transfer instructions prior to each benefit payment?

If a benefit's value is under $3,500 and the plan provides for automatic pay out, how much time has to be given to the participant to provide transfer directions before the distribution is made with 20 percent withholding?

If a participant does not decide to roll over an eligible distribution until after payment is received, less 20 percent withholding, the participant will lose part of the retirement income that can be rolled over, unless he or she has other funds or can borrow money within the 60 day rollover period to augment the payment up to the amount of the total distribution. In addition, if the 10 percent early withdrawal penalty is applicable, the 20 percent that was withheld may be subject to such penalty.

Example. Mary and Jim each receive a distribution of $50,000 which, after the 20 percent withholding, consists of a check for $40,000 and $10,000 forwarded to IRS. Mary has sufficient assets to open an IRA with the $40,000 check and her own check for $10,000. On her tax return, she will report a rollover of $50,000 and will either reduce the taxes she owes by the $10,000 that was withheld or get it back as a refund. Jim cannot come up with $10,000, so he only rolls over the $40,000 check to an IRA, and on his tax return has a net taxable distribution of $10,000. Assuming a 35 percent tax rate (federal and state) and a 10 percent early withdrawal penalty since he is not age 55, Jim only gets a reduction in taxes due (or a refund) of $5,500. This cannot be rolled over since the 60 days have passed,

so Jim has lost at least $4,500 in tax deferred IRA retirement funds.

The 20 percent withholding is applicable to hardship distributions, although this may have been a drafting mistake. Unless it is changed, plans will have to decide whether to allow for hardship distributions to be "topped-up", since withholding can no longer be waived. Of course, a participant can elect a trustee to trustee transfer to an IRA and then close the IRA while waiving tax withholding. This means, of course, lots more paperwork.

Are Social Security supplements that are payable for less than 10 years eligible rollover distributions or are they part of the pension annuity?

If an outstanding loan becomes a taxable distribution, as can happen upon termination of employment, and the participant cannot repay the outstanding balance, then the balance is subject to 20 percent withholding. If the participant directs the transfer of the rest of the account, how will the withholding be accomplished? The same problem may arise when a distribution includes noncash assets (stock, real estate, etc.)

[From the Kansas City Star, July 25, 1992]

MUCH GRIEF, NOT MUCH REVENUE

(By Jerry Heaster)

The contempt Congress has toward its most productive constituents was underscored recently when it decided to hijack your retirement nest egg if given the chance.

The latest wrinkle in federal tax law involves what is easily the most outrageous congressional action of the year and is yet another reason to clean house on Capitol Hill come November.

In case you haven't heard, here's what happened: When the right honorables needed a way to finance an extension of unemployment benefits, they imposed a 20 percent withholding tax on lump-sum distributions of tax-deferred pension accounts. Many of those most likely to be affected still aren't aware of the ambush Congress has set for them because the tax law change was buried deep in the stories about the jobless-pay extension.

Word is slowly getting out, though, and as it does the firestorm it's creating may eventually rival the protest sparked by an equally outrageous effort in the '80s to impose withholding taxes on interest and dividend payments.

This time, however, the rip-off is even more egregious because it's a fiscal sham. Despite the financial injury many hard-working Americans will suffer from this tax initiative, it is expected to enhance revenue by only a couple of billion bucks.

Whereas the current law allows 60 days for individuals to roll over pension fund distributions into other retirement accounts, the new law requires the employer to complete the transfer directly. Starting next year, if you unwittingly lay hands on the funds personally, you're hurting.

If you get a $50,000 distribution, say, because you change employers or are forced into early retirement, the check will be for only $40,000. But to avoid paying taxes and penalties, all $50,000 you were due must be rolled over into another tax-deferred retirement account.

Since the feds have already taken $10,000 of your nest egg, this means you must come up with the difference out of pocket when doing the rollover. If you don't, the 10 grand you fail to match in the new account not only will be taxed as income but also probably will be hit with an extra penalty tax for early withdrawal. And you'll also have lost the earning power of the $10,000 that's no longer invested.

If you do make up the shortfall on your own to maintain the tax-free integrity of your entire $50,000 nest egg, you'll get a refund when you file your next tax return because you won't be liable for the tax already withheld. This means that while Uncle Sam has had the benefit of an interest-free loan from you for more than a year, he still won't gain any actual extra tax revenue.

Moreover, as potential victims learn how to avoid the withholding by having the money taken care of without it ever coming into their possession, this will further weaken the measure's revenue-enhancement potential.

So why would those elected to represent your best interests create so much grief for so many hard-working, responsible Americans in return for so little in additional revenue? Probably because the 1990 budget agreement mandated that spending increases be offset by spending cuts or revenue enhancements. It's not important, however, for an actual balance to be achieved.

With this device, additional revenue can be estimated to pay for vote-buying largess in an election year even if much of it either never materializes in the first place or ultimately must be refunded if it does.

Do you ever wonder why America can't generate enough savings and investment to fuel economic growth? Wonder no more.

[From Business Week, Aug. 17, 1992]

DON'T ROLL OVER FOR THIS PAYOUT PLOY

Although the rules about payouts when you leave your company are complex, there has been one simple way to shelter lump sums from tax: Roll over the check from the company's pension fund or 401(k) savings plan into an individual retirement account or another eligible plan within 60 days. But after this year, once you receive that check, it will be too late to avoid a stiff new tax bite.

So, you must arrange in advance for your employer to make a trustee-to-trustee transfer to a cooperating bank, brokerage house, or new employer's plan. Otherwise, lump sums will be subject to a 20% withholding rate.

A major concern of tax advisers is "people being unpleasantly surprised," says Bill Fleming in the Hartford office of accountants Coopers & Lybrand. Those who suddenly change jobs or fall victim to cutbacks are the most likely to "get punished" for not knowing the tax rules.

Without a trustee transfer a $100,000 nest egg would mean a check for only $80,000. You still have 60 days to roll it into an IRA, tax-free until withdrawal. But to shelter this full $100,000, you'd have to come up with $20,000 from somewhere else.

If you don't make up the difference within 60 days, the $20,000 will also be subject to regular tax even though your never saw it. And unless you're 59½, you'll face a 10% penalty. Whether you ever get the $20,000 back depends on your total tax bill for the year. For instance, you might be overwithheld in general and get back your $20,000 as part of a refund. Or you could even end up owing more.

TAX TRAP

The congressional rationale is to foster trustee-to-trustee transfers so people will keep lump sums locked away for retirement rather than spend the money once they have a check in hand. But few employers now are set up to handle such transfers, so Congress is "leading you down the path" to having part of the nest egg taxed away, Fleming says.

By making withholding mandatory instead of optional, as it is now, "they actually set out to trap people," says Alan Prigal, a New York tax attorney and consultant to Bender's Federal Tax Week. The change is slated to raise $2.1 billion to help pay for extended unemployment benefits in the first year and nearly nothing after that—when most people presumably will have learned from those who got burned.—DICK JANSSEN.

LEASED EMPLOYEE

Mr. KERRY. Mr. President, I have two questions regarding a clarification of the leased employee provision in the bill.

Mr. BENTSEN. I would be pleased to offer any clarifications.

Mr. KERRY. First, when we considered a similar provision on June 23, 1989, you concurred with my understanding that under the definition of "leased employee" then proposed, the fact that an individual's services are not performed under the control of the intermediary party that arranged for the individual to perform the services for the recipient company does not, by itself, necessarily lead to the conclusion that the individual's services are performed under the control of the recipient company. The services may instead be performed under the control of the individual himself or under the control of an entity other than the intermediary third party or the recipient company. This issue was then, and still remains, particularly important in my State of Massachusetts where a substantial number of workers provide services through brokers as independent contractors. Would my understanding on this point still be correct today under the present bill?

Mr. BENTSEN. Yes; it would be.

Mr. KERRY. Second, the explanation of the bill states that the service recipient must exercise control over a worker for the worker to be considered a leased employee. The explanation also states that the determination is made on all the facts and circumstances. I am concerned that this definition not be extended beyond the original intent of the leased employee provisions to reach certain professionals like attorneys; accountants and actuaries; doctors; and computer programmers, systems analysts, software and hardware engineers; and other similarly skilled professionals who typically are under the general control of the service recipients.

Often the service recipient's establishment of the techniques and methods to be used, and its requirement that work be performed onsite and according to certain stages and timetables, is dictated in many respects by the very nature of the work itself; also there is general direction given as to the results to be obtained. However, this type of general control by service

recipients does not appear to be significant in the overall context of the day-to-day work of these professionals who regularly make substantial use of their own judgment and discretion on matters of importance in the performance of their services, accordingly, this type of general control would not be an important indicator of whether these professionals are leased employees. Is my understanding correct of how the control test would apply to these workers?

Mr. BENTSEN. Yes, it is correct.

ERISA WAIVER STATEMENT

Mr. DURENBERGER. Mr. President, I rise to speak today about the crucial need to find ways to finance health reform.

Mr. President, several weeks ago I introduced legislation, S. 3223—the State Health Care Financing Equity Act. I was joined by my colleague from New Jersey, Senator BRADLEY, and several others. The Durenberger-Bradley bill permits states to waive ERISA preemption requirements for certain limited purposes. The bill provides a narrow exemption for the States to enact equitable financing plans which are directed specifically at expanding access to cost-efficient health care. Period.

Mr. President, I believe that the Federal Government has the responsibility to provide financial security against catastrophic medical expenses to all Americans. Every American should be able to get access to a health plan. If they cannot purchase that plan in the marketplace, the Federal Government should assist them through vouchers, tax credits, or other subsidies.

Unfortunately, Mr. President, the Congress and the President have been unable to reach consensus on a plan for universal access to health care.

Many States, thank goodness, are not waiting for Washington. They are ready to move to help their citizens get access to health care. States have to figure out how to use their limited resources to expand access to care.

However, because of ERISA, States are seriously limited in assessing taxes against what are known as self-insured plans governed exclusively by Federal law.

Many States, including my own State of Minnesota, have found their hands tied. They can only levy taxes against a dwindling number of employers who buy commercial insurance.

What kind of message are we sending to the States? We are saying: if we cannot pass legislation to expand access then you can't either. That is irresponsible.

And it is even more so when we realize that health reform is not a parlor game. The price for failure to act, and our failure to allow the States to act, is being paid in the form of pain and suffering and fear among American families.

In my view, as long as what States are doing is not detrimental to good health care, I am not going to impose what my vote might be on a decision which is theirs to make. Especially when we are unwilling to face up to those same hard choices at the Federal level.

Let me tell you, Mr. President, that there are a lot of strong feelings about this issue of ERISA preemption. I have listened carefully and attentively to many arguments against my bill.

Some have said that my approach would encourage States to rush out and pass provider taxes. But, here are the facts. Twenty two States already impose taxes on hospitals, doctors and other providers for the purpose of financing and subsidizing uncompensated care, State Medicaid programs, and a host of other health programs. It was an unanticipated district court decision last June that threw the legality of provider taxes assessed against self-funded plans in doubt.

States do not rush out and pass taxes of any kind. We in Congress know better than anyone else how hard it is politically to raise taxes at any level of Government. States struggle, as we do in Congress, with political forces that resist tax increases.

Provider taxes, just like cigarette taxes or sales taxes, are legitimate sources of tax revenue for States. It is a State decision. The ERISA law prevents States from assessing nondiscriminatory broad-based taxes on all users of the providers' services. This exception is unfair. Unfair taxation is what we are trying to prevent.

ERISA also prevents a State from taxing the insured to support uninsured. States can levy premium taxes on the commercially insured plans. But, self-insured employers are exempt from these levies as well.

Self-insurance is only a practical alternative for large firms. Thus, the larger companies, who are often the best able to afford these taxes, do not have to pay them. This is unfair.

Self-insured firms also argue that they take care of their own workers; they do not need to take care of anyone else.

In response, first let me say that I recognize the growing efforts to self-insured firms to manage health care costs. Nowhere is this more true than in Minnesota where our self-insured large firms have begun creative alliances with health plans to improve the quality of care their employees receive while reducing the costs of that care. I applaud their efforts.

However, the fact that they provide excellent benefits does not exempt them from certain social responsibilities. The parents who choose to pay for private education for their own children are not exempt from taxes to support public education. The firm that offers scholarships to children of their employees is not exempt from taxes that are used for scholarships and loans for low income individuals.

Mr. President, I am not closed to creative alternatives to my bill. There are better, fairer, wiser ways to finance universal coverage. They are all here in Washington. Restructuring the tax subsidy for employer paid health insurance. Redesigning Medicare to make it more rational, with catastrophic protection, long-term care, and without billions in wasteful Medigap insurance purchases. Replacing Medicaid with low-income premium subsidies.

These issues are deeply divisive. I am enough of a realist to know that we cannot force a decision in the last days of this Congress, particularly on a tax bill which is in itself controversial. Thus, I am not offering my bill, S. 3223, as an amendment on H.R. 11 at this time.

But my message is a warning. ERISA preemption in particular, and health care financing in general, are issues that can no longer be avoided. For too long we have denied that universal access will require new sources of revenues or major reallocation of resources or both.

We will not get health reform without resolving these thorny issues. A first step is to give those States who are already on the front lines of this battle the freedom to succeed.

I am pledging to raise these issues in the earliest days of the new Congress.

We ask unanimous consent that an article from the American Hospital Association News describing the issue and an editorial in the Minneapolis Tribune describing Minnesota's quandary be printed in the RECORD.

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

[From AHA News, Sept. 21, 1992]

LATEST STRANGLEHOLD ON STATES' HEALTH CARE REFORM EFFORTS—ERISA

Lawmakers instrumental in crafting legislation aimed at protecting employee pension plans in the early 1970s never realized the can of worms their efforts would open up two decades later.

But states now are fishing for ways to circumvent that legislation, the Employee Retirement Income Security Act of 1974 (ERISA), in their attempts to implement their own health care-reform plans in the face of federal government gridlock.

The legislation, which sets forth federal regulations for all employee-benefit programs, allows states to tax and regulate traditional insurers but prohibits them from requiring employers to provide health care coverage to their workers and from regulating or taxing self-insured employers' plans. Such mandates and taxes are parts of the reform plans proposed by many states. ERISA exemptions can be obtained only with an act of Congress signed by the president.

"[The law] set up to protect employee pension plans is creating chaos in their health plans," said Ken McDonnell, a research analyst for the Washington, DC-based Employee Benefit Research Institute (EBRI).

In fact, ERISA is creating so much of a problem for states that a number of governors have made the pilgrimage to the nation's capital to plead for relief.

"In the absence of national leadership and vision, we must move ahead," Florida Gov. Lawton Chiles said during a recent health-policy forum in Washington. "For some of our citizens, it is a matter of quality of life. For too many, it is a matter of life and death."

Relief for states may come in the form of bills introduced recently in Congress.

Hoping to clear the way for Florida to proceed with is plan to ensure that each of its residents receives basic health care benefits, Chiles is backing a bill sponsored by Sens. Patrick Leahy (D-VT) and David Pryor (D-AR) that would allow 10 states to establish health care demonstration projects with immunity from ERISA and Medicaid rules.

A separate bill introduced by Sen. Dave Durenberger (R-MN) would establish federal ERISA waivers for approved state reform initiatives, allowing the states to impose certain surcharges and state insurance taxes on self-insured employers.

The Bush administration opposes the Leahy/Pryor bill, according to Gail Wilensky, the White House's top adviser on health and welfare issues. The reasons she cited were the bill's proposal to strip the HHS secretary's authority to issue waivers, and the concern that exemption requirements would lead to highly regulated cost-control mechanisms.

On Durenberger's bill, Wilensky said the White House as of last week did not yet have a position.

Durenburger, in comments earlier this year on the House floor said: "ERISA has become a shield behind which self-insured companies can avoid social responsibilities that others must bear. This not why we adopted ERISA."

Many businesses have become self-insured in recent years as a way to bypass many state insurance regulations as well as to reduce administrative expenses and provide consistent health coverage to workers scattered in different states.

Not surprisingly, business leaders—and even labor officials—oppose changes to ERISA. The AFL-CIO, which is a self-insured organization, does not want to see exemptions to ERISA as a means of clearing the way for state health care reform.

"We want to see national health care reform." said Colleen O'Neill, an AFL-CIO spokeswoman. "[We're] against testing in the states because it is putting off the inevitable."

Without changes to ERISA, states' grand attempts at reform would amount to paltry tinkering with state insurance codes.

As EBRI's McDonnell said: "Things like universal health care are out."

States would have to be satisfied with enacting only small-group insurance reforms and approving sales of "bare-bones" health-insurance policies, which bypass state mandates. Although these reforms are themselves significant, a growing number of states have far loftier plans.

But without an ERISA exemption, states could not institute premium taxes to fund insurance pools for high-risk individuals, implement single-payer or "play-or-pay" systems, develop streamlined administrative claims forms and billing systems nor establish negotiated rate systems.

"That's a very significant list," said Carl Volpe, a senior policy analyst for the National Governors' Association (NGA), Washington, DC. "I'd say that states are very limited."

Only Hawaii has been able to do what other states are only now attempting. In striving for universal access, Hawaii has implemented a mandate that all employers, including self-insured businesses, provide workers with coverage.

Hawaii implemented its program before ERISA was enacted and was able to get an exemption written into the law. But the state has not been able to modify its system since 1974 to cover those residents who fall through the cracks.

Now a raft of states are trying to follow Hawaii's lead. Some state officials, including those in Florida, say they have no choice but to seek the necessary ERISA exemptions.

"We can't do what we want to do without an exemption," said Gary Clarke, the state's Medicaid director, "It's critical."

In the meantime, however, other states are attempting to sidestep the law.—CHRISTOPHER J. GEARON.

[From the Star Tribune, Sept. 25, 1992]

THE LEGAL SHADOW OVER MINNESOTACARE

The shadow of a lawsuit lengthened this week over MinnesotaCare, the much-hailed landmark plan for providing health care to the uninsured. Special interests succeeded in quashing an effort led by Minnesota Sen. Dave Durenberger to erase the shadow with an amendment to federal law.

Unless Congress next week miraculously finds that backbone it's long been lacking on health care, MinnesotaCare is in for a treacherous legal journey that could strip it of a primary funding source, a tax on the services of health-care providers.

The lawsuit is the handiwork of the Twin Cities Pipe Trades Welfare Trust, a self-insured health plan for union workers. But the union isn't the real villain in this drama—the federal government is, for denying states any ability to tax self-insured health plans in a manner parallel to commercial health insurance.

The union's beef with MinnesotaCare is that its providers' tax will be passed on in higher costs for the union's health plan (not to mention the many other self-insured plans in the state). That, the union argues, violates the 1974 Federal Employee Retirement Income Security Act, better known as ERISA, which requires that self-insured health plans use their assets only to benefit their own participants.

The union's argument may seem like a reach, but it prevailed in federal court in New Jersey earlier this year. A hospital billings surcharge dedicated to funding health care for the uninsured was struck down as a violation of ERISA. A General Accounting Office specialist told a U.S. Senate panel earlier this month that the pipe trades' suit in Minnesota could have the same result.

Durenberger and Minnesota's junior senator, Paul Wellstone, joined forces to try to protect MinnesotaCare. Their amendment to ERISA would have allowed states to tap self-insured plans to fund programs giving more people access to health care. But they bumped hard into a coalition of unions and major employers who want to block tampering with ERISA's preemption of state control of self-funded health insurance.

The Minnesota senators' experience demonstrates once again why health-care reform is so hard to come by in America. The people who oppose change are rich, powerful and know how to lobby. The people who so desperately need change aren't. The Minnesota Legislature courageously took a stand on the side of the uninsured this spring. Shame on Congress for refusing to do so this fall.

Mr. BENTSEN. I would like to thank my colleague from Minnesota, Senator DURENBERGER, for his introduction of S. 3223, the State Health Care Financing Act, and for his continuing leadership on health care issues in the Senate. The Senator's bill addresses a very important issue of great concern to the States. As he knows, we have already held a hearing on this issue in the Finance Committee.

The Senator from Minnesota has accurately stated my view that I would oppose an effort to offer S. 3223, or any other bill dealing with the ERISA preemption of State laws, as an amendment on H.R. 11. We cannot allow this important bill to be bogged down with controversial amendments at this late date.

I am aware of the importance of the issues that Senator DURENBERGER raises in this bill. This is a matter that the Senate will take up when we reconvene in 1993.

Mr. SEYMOUR. Mr. President, I rise to explain my reason for supporting H.R. 11, the Revenue Act of 1992. I supported passage of the Senate version of this legislation because this measure contains many excellent provisions which if signed into law will be instrumental in reinvigorating the American economy and put us on the road to recovery. However, I voted for this measure with some very strong reservations.

The reason I supported this bill is because there are many provisions of this legislation that will help many facets of our economy, and collectively, our country. Some of these provisions include: measures to help our economically depressed urban, rural, and Indian areas through the creation of 125 enterprize zones, a $2,500 first-time home buyer tax credit and modification of the passive loss rules for real estate to jump-start the economy, reinstatement of individual retirement accounts [IRA's] for everyone and penalty-free withdrawals for reasons of health, education or the purchase of a first home, and repeal of the so-called luxury tax on boats, jewelry, airplanes, furs, and indexation for cars.

My reservations focus on the tax increases in the bill. It is my hope that in conference these increases will be removed. If not, I will revisit this issue and may be disposed to oppose this measure. I would only do this out of concern that tax increases will negate the positive provisions in this bill and prevent the economic recovery that is the intent of this measure.

Mr. MURKOWSKI. Mr. President, I will vote yes tonight on passage of H.R. 11, but I do so only because I hope that the significant problems with this bill, namely the tax increases, can be eliminated in conference while retaining much of the good which this bill has to offer. I will not, of course, support the conference report if it retains the tax increases present in the bill as now drafted.

Mr. President, this bill contains many important provisions, some of which I have been advocating for years. The return of the fully deductible IRA is crucial to getting Americans back in the savings game. The $2,500 first-time home buyer tax credit will help revitalize the American real estate and construction businesses while giving young Americans the opportunity to own their own home, something all Americans deserve. The military IRA rollover provision I introduced will help tens of thousands of departing service people adjust to life outside the military. There are important provisions for enterprize zones, in both the cities and rural parts of America. And, finally, there is important tax relief here for thousands of Alaskans who will not get the tax relief on State education loans that they deserve.

Unfortunately, of course, there are tax increases in this bill as it is now written. I hope and trust that the Members of this body, together with the Members of the other body, will in conference remove those tax raising provisions. This is an important bill, Mr. President, and there are many, many parts of it which deserve to become law. That said, I will not support this bill if it comes out of conference with tax increases. However important may be the good parts of this bill, I do not believe that they justify imposing another tax increase on the backs of Americans, and I will so vote.

Mr. BINGAMAN. Mr. President, I rise to commend the distinguished manager of the bill and chairman of the Finance Committee, Senator BENTSEN, for his leadership on the legislation before us. He has done a yeoman's job over the past several weeks and days in attempting to address the many and diverse concerns raised by my colleagues and me. However, I remain very troubled by one provision of the manager's amendment.

Section 136 of the amendment addresses the very complex issue of physician self-referral and would create a number of exceptions to the current prohibition against this practice in some circumstances. As a cosponsor of S. 3186, the ethics in Referrals and Billing Act, which Senators ADAMS, METZENBAUM, and I introduced earlier this year, I am opposed to any effort that encourages or expands the practice of self-referral.

I am sure the chairman agrees with me when I state that this very complex issue deserves careful, thoughtful attention. The provisions in S. 3274 illustrate the difficulty of attempting to regulate physician self-referral in a piecemeal fashion. I believe S. 3274 creates exemptions that will undermine our efforts to regulate the egregious aspects of self-referral. We cannot afford to address this critical issue in anything less than a comprehensive manner.

I had planned to offer an amendment to strike the troublesome provisions, but at the urging of the chairman, I will not pursue the amendment. I understand the chairman is sympathetic to my concerns, which were also raised by Senator ADAMS and Senator METZENBAUM, and that he will work with us and other concerned colleagues on these issue when the bill is conferenced with the House.

In the past any exception to self-referral prohibitions occurred only after extensive discussion within the Congress and the health industry. This approach developed because of the complexity of this issue. The approach pursued in the manager's amendment, introducing self-referrals provisions with little discussion and examination, lends itself to errors. When we revise physician self-referral provisions we must do so with caution and certainly.

The practice of physician self-referral is a particularly onerous example of the type of increased intensity and volume of health care services that is driving up U.S. health care costs at an alarming rate. Self-referral occurs when a physician enters into a health services joint venture arrangement, thereby gaining a financial interest in an independent health care facility. Joint venture arrangements come in a variety of forms, the most common occurring when a physician makes an investment in a facility that provides physical therapy or rehabilitation programs, diagnostic imaging, radiation therapy, or another type of service to which he or she may refer patients. The benefit to the physician, in terms of income and tax advantages, ranges from small sums to thousands of dollars per year. But one thing remains constant: the success or failure of the joint venture depends on the physician's ability to make patient referrals.

We simply must do all that we can to assure that this practice does not continue if we are ever to achieve cost containment in the U.S. health care system. I thank the chairman for his willingness to address these concerns during the House-Senate conference on H.R. 11.

Mr. MACK. Mr. President, this bill provides real economic hope and opportunity to several sectors of our economy. My constituents in Florida are hurting. They are anxious about their jobs and about the state of the economy. They want action, even if it means taking some risks.

With this bill the horrible luxury tax on boats—the layoff tax—is finally repealed. Since this tax was created, it has caused job losses, harmed businesses and cost the Government revenue. The luxury tax is proof that higher taxes mean fewer jobs, and it will not be missed.

Other elements of this bill will have very significant effects on the real estate industry. These provisions—most notably the modifications of passive loss treatment—are necessary in order to revive the real estate industry from its depression.

The bill will boost economic activity by reducing the litigation costs associated with the amortization of intangibles. It also takes a step toward easing the burden of the alternative minimum tax [AMT] when businesses make productivity-enhancing investments in capital equipment.

Also included in this bill are important provisions that will help provide tax relief to the victims of Hurricane Andrew. Two amendments of mine will allow penalty-free withdrawals from IRA's for reconstructing homes and businesses, and also allow agricultural producers to defer their tax payments without penalty for 1 year in order to help them replant and rebuild their businesses.

In addition, the bill contains a provision to create much-needed enterprise zones which will help spur economic growth in depressed rural areas and inner cities. Under the bill's criteria, hurricane ravaged south Dade County, FL, would be a prime candidate for an enterprise zone classification.

But this bill is not free of warts. There are several key elements—particularly those provisions known as PEP and Pease—which are very damaging to economic growth nationwide. I have assurances that these provisions will be removed in conference. As beneficial as the economic growth elements are, these other provisions must be removed if this bill is to boost the overall health of the economy.

URBAN AID BILL

Mr. KERRY. Mr. President, I support the Urban Aid bill. I do so with somewhat less enthusiasm than I would like, in full knowledge that this measure does not authorize the kind of major investments in urban America that we so urgently need. It is only a downpayment, and a small downpayment at that.

I decided to support the bill after much consideration and only after Senate acceptance of the Kennedy-Riegle amendment which I cosponsored and which targets an additional $2.5 billion to urban areas over the next 5 years. I was swayed by the fact that the current version of the bill includes important provisions that will benefit many Americans—rural, suburban, and urban. H.R. 11 includes a variety of tax incentives, accounting for $5 billion of the total bill's cost of $30 billion, some of which I believe will be helpful in curing our economy of its current malaise. The bill includes the targeted capital gains tax cut for long-term investment in small businesses and the R&D tax credit, both of which will spur the kind of job-creating investment that our economy so desperately needs. It includes, as well, a modification of the

passive loss rules for real estate investors and a provision promoting pension plan investment in real estate. Both of these measures are needed to jump-start our Nation's ailing real estate industry. In addition, this legislation, if signed into law, would end finally the so-called luxury tax on boats which has compounded the devastation of the boat industry brought about by our sick economy.

The urban and social spending in the bill, including the Kennedy-Riegle amendment, accounts for approximately $10.5 of the bill's $30 billion total. The expansion of the JOBS program will enable States to offer additional education and job training opportunities to move welfare recipients toward self-sufficiency. The increase in the asset limits for AFDC recipients will help families break the cycle of dependence by not punishing them for exhibiting the values we talk about in the debate on welfare reform—hard work, thrift, pursuit of educational and job training opportunities, and demonstration of the belief that one's life can be improved. It is my hope, Mr. President, that with the bill's revision of the AFDC asset limit provisions, we will never again hear of young people like Sandra Rosada of Connecticut who was forced to spend several thousand dollars in savings and whose family was required to pay AFDC overpayment charges because Sandra held a job while in high school in order to save the money she earned to pay for college.

The Finance Committee has included important provisions in the bill for family preservation projects, maternal and child health, mental health, substance abuse, and juvenile justice initiatives. The requirements of the Child Support Tax Equity Act have been incorporated in this bill as well, and as a cosponsor of that act, I am pleased that the bill before us recognizes and addresses the problem of parents who fail to pay child support—usually deadbeat dads. Those who have children have a responsibility for the housing, education, health, and security of their children. Failure to pay child support or flight to another State does not change that, and the provisions of this bill will make that less likely.

The Kennedy-Riegle amendment improves on the provisions in the bill for families by authorizing additional funds for programs that are of proven value like Head Start, Youthbuild, and Community Development Block Grants. It also targets about 60 percent of the money on the enterprise zones, that will be created by the bill.

The heart of the bill's urban provisions is the creation of 125 enterprise zones, 75 of which will be located in urban areas. I believe in enterprise zones because I believe that an increased flow of private capital is an essential prerequisite to the revival of urban neighborhoods. A Federal enterprise zone program would supplement existing State programs and create opportunity where existing market conditions and incentives would not.

But clearly, enterprise zones are not sufficient. Expert after expert has testified that a comprehensive approach to urban rebuilding is needed. That includes incentives for the private sector; it also includes investments in education, job training, drug rehabilitation, community policing, and the basic building blocks of community life.

There are those who say we can't afford to make these investments. They say they are a waste of money. They say that joblessness and hopelessness can only be cured when individuals take responsibility for their own lives.

Well, Mr. President, it is true that individuals must take responsibility for their own lives; they must make wise choices; they must demonstrate good values. But we help create the environment within which their choices are made.

And responsibility is not entirely the province of individuals. Over the past 12 years, the Reagan-Bush administrations reduced the Federal share of city expenditures from 17 percent to 6 percent. Where is the responsibility in that?

Over the same period, Federal support for housing, in real terms, dropped by 82 percent; for job training by 63 percent, for community development, by 40 percent, and for social service and community service block grants by 40 percent. What kind of choices were those?

Just this past March, the President vetoed a tax bill that would have given us urban enterprise zones; vetoed the centerpiece of what he now describes as a program to get this country moving again, to create jobs and to bring some real opportunity into our cities.

And now, after successfully limiting the amount and type of urban aid in this bill, the President threatens to veto H.R. 11. His threat comes despite the fact that the bill contains all of the economic growth proposals from his State of the Union Address except for a broad-based capital gains tax cut and it provides funding for 125 enterprise zones for which his Secretary of Housing and Urban Development campaigned so vociferously.

Why? The President vetoed the bill the Congress sent him this spring because it would have taken away a portion—just a portion—of the tax breaks that were given to the richest 1 percent of Americans during the Reagan years. And he threatens to veto this bill because Congress has refused thus far to reopen tax loopholes for the most well off. To protect the wealthiest of the wealthiest, the President is willing to turn his back on urban America and middle America and rural America and everyone else with an interest in getting our economy back on its feet, and an interest in restoring basic fairness to our tax system.

There are those who really do not care much about the problems of cities in America today. They point out that we are now predominately a suburban Nation. They believe they are not affected by the fact that, because of Federal neglect, cities are being forced year-by-year to raise taxes, cut services, and freeze or reduce public hearing. They look at urban residents and instead of understanding or helping, they turn away or lecture or assign blame. And the sad part of it is that many of these people are in the executive branch of the Government of the United States.

One of the reasons the President is in such political trouble today is that he has so clearly lost touch with the day-to-day concerns of the American people. Other than Jack Kemp and Louis Sullivan, there is not a member of this administration who has given any indication of understanding the kinds of choices the average kid or parent faces in our major cities today.

The crisis in our cities did not begin 3 months ago in Los Angeles. It is not a product of the Rodney King verdict. It exists—to a greater or lesser degree—in cities across America. It has been evolving for years. It has not one, but multiple causes. And it threatens literally to destroy America.

Deep down, we know we will not be able to compete internationally if too many of our young people are in jail or on drugs or always in the streets; we will never get out of debt if we must allocate billions more each year to prisons, prosecutions, emergency health care, expanded welfare and food stamps or rebuilding what the desperate among us have destroyed; and we will never have peace of mind as long as so many of us feel the need to seek security through locked doors, high fences, metal detectors, and the purchase of guns.

Deep down, we also know that it does not have to be this way. We have the power to choose a different road.

That choice begins, although it does not end, with money and how we spend it. Let us be clear. There's a fundamental difference between spending billions for something like B-2 bomber and spending the same amount for programs like child immunization and Head Start. It is like the difference between a family saving to send a child to college and that same family splurging on a trip to the Caribbean.

You buy a bomber, you get a bomber. You change the life a young kid who needs help and you get a citizen. How do you measure the savings? How do you count the crimes that might have been committed, but now will not be? How do you put a value on the difference to society of a young person

making responsible choices about school and drugs and sex and that same person making irresponsible choices because he had no access to Head Start, no chance at a job, no opportunity to grow up in a neighborhood with responsible models to emulate?

Mr. President, this bill is not the comprehensive urban investment package that I would have liked to see. It is a minimum response to a major problem. There are also legitimate questions about the unrelated tax cuts in the bill, many of which concern me greatly. But there is too much in this bill that I feel will help our economy for me to vote against it. Obviously, this is an election year and there will be efforts to characterize this bill one way or another for purposes of partisan gain. But I hope amidst all the rhetoric, we will keep sight of a building consensus in this country that I believe is potentially very hopeful.

It may have taken Los Angeles to do it, but I think there is growing agreement that the crisis in our cities affects us all, whether we live in a city, suburb, and rural community; that our response must include incentives for the private sector and a greater effort by government; that individuals must be held accountable for their own choices and actions, but that this does not relieve the Government of its own responsibilities; and that a sustained, broad-based, innovation strategy for responding to the problem is required.

This legislation constitutes only the very first steps of such a strategy, and this debate indicates that the consensus of opinion we need is only starting to form. So let us approve this bill, but let us do so with a minimum of pride in the accomplishment it represents, and a maximum of commitment to carrying forward the job that this measure so modestly and so belatedly begins.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—70

Adams	Cohen	Glenn
Akaka	Conrad	Graham
Baucus	Cranston	Grassley
Bentsen	D'Amato	Harkin
Bingaman	Danforth	Hatfield
Bond	Daschle	Heflin
Boren	DeConcini	Hollings
Breaux	Dodd	Inouye
Bryan	Domenici	Johnston
Bumpers	Durenberger	Kasten
Burdick, Jocelyn	Exon	Kennedy
Byrd	Ford	Kerrey
Chafee	Fowler	Kerry
Kohl	Packwood	Sasser
Lautenberg	Pell	Seymour
Levin	Pressler	Simpson
Lieberman	Pryor	Specter
Mack	Reid	Stevens
Mikulski	Riegle	Thurmond
Mitchell	Robb	Warner
Moynihan	Rockefeller	Wirth
Murkowski	Roth	Wofford
Nickles	Sanford	
Nunn	Sarbanes	

NAYS—29

Biden	Gorton	McConnell
Bradley	Gramm	Metzenbaum
Brown	Hatch	Rudman
Burns	Helms	Shelby
Coats	Jeffords	Simon
Cochran	Kassebaum	Smith
Craig	Leahy	Symms
Dixon	Lott	Wallop
Dole	Lugar	Wellstone
Garn	McCain	

NOT VOTING—1

Gore

So the bill (H.R. 11) as amended, was passed.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the order of September 28, the Senate insists upon its amendments to the bill, requests a conference with the House of Representatives on the disagreeing votes of the two Houses, and the Chair appoints the following conferees on the part of the Senate:

Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BOREN, Mr. MITCHELL, Mr. PRYOR, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE.

And from the Committees on Banking, Housing and Urban Affairs; the Judiciary; and Labor and Human Resources, for consideration of title VIII of the Senate amendment only, Mr. KENNEDY, Mr. RIEGLE, Mr. BIDEN, Mr. HATCH, and Mr. GRAMM of Texas.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I have previously engaged in discussions with the distinguished Republican leader and the distinguished Senator from Michigan, Senator LEVIN, and my colleague from Maine, Senator COHEN, regarding the bill to reauthorize the Independent Counsel law.

In accordance with our discussions I now ask unanimous consent that the Senate proceed to Calendar Order No. 676, S. 3131, a bill to reauthorize the Independent Counsel law for an additional 5 years and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, on behalf of a number of Senators on this side I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. Mr. President, the Senators that the distinguished Republican leader has referred to have signed a letter. And that letter makes it clear that the effort to bring up the Independent Counsel law reauthorization this year will run into a filibuster. I would just quote two lines from that letter which has been shared with me.

"We are writing to express our vehement opposition * * * and our intent to debate—at length—any attempt to proceed to the bill." And also making reference to "fervent opposition."

So the reality is that we are going to be unable to reauthorize the Independent Counsel law this year. It runs out in December. I think it is a sad day for the country that we will be without this law for at least a month or two.

Senator COHEN and I, I know, are both dedicated to bringing this up and making this effort again next year. The law was put into place as a Watergate reform and the filibuster threat now is killing, at least for the next few months, the most important single Watergate reform on the books, which is the Independent Counsel law.

This was a truly bipartisan effort to reauthorize it. I want to thank the majority leader for his effort to bring this matter up. It thank Senator COHEN for his continuing support of this bill. We will be back next year.

One other thing, I ask unanimous consent that the letter which has been referred to of the 28 Senators as well as two other documents relating to this matter be printed in the RECORD at this point.

Mr. WALLOP. Reserving the right to object, can I inquire of the Senator from Michigan, if the name of the Senator from Wyoming is on that letter?

Mr. LEVIN. It is.

Mr. WALLOP. Because I was going to ask unanimous consent it be added were it not. I have no objection.

Mr. LEVIN. As a matter of fact it is the top name, so the Senator will not be disappointed.

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

U.S. SENATE,
Washington, DC, September 23, 1992.

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

DEAR BOB: It has come to our attention that the Majority Leader is considering bringing the Independent Counsel Reauthorization to the floor before the Senate adjourns sine die. We are writing to express our vehement opposition to this legislation and our intent to debate—at length—any attempt to proceed to the bill. Should this legislation become the pending business before the Senate, you can anticipate extended debate and amendments including an amendment pertaining to Congressional coverage.

With less than two weeks remaining before the target adjournment date, Congress has precious little time to complete its list of "must pass" legislation: the appropriations bills, assorted conference reports, and presidential vetoes. For the Majority Leader to contemplate straying from this list to pursue contentious and ill-advised bills such as

the reauthorization of the independent counsel law almost defies belief.

With the disgraceful indictment of Caspar Weinberger and the subsequent announcement of the end to Lawrence Walsh's five year, multi-million dollar investigation, this hardly seems the time for Congress hurriedly to consider reauthorization of such pernicious legislation.

Please convey to the Majority Leader our fervent opposition to any effort to bring this controversial bill up at such a late date in the session.

Sincerely,

Malcolm Wallop, Strom Thurmond, Mitch McConnell, Bob Dole, Steve Symms, Bob Smith, Dan Coats, Ted Stevens, Thad Cochran, Orrin Hatch, Larry E. Craig, Richard G. Lugar, Jake Garn, Frank H. Murkowski, Jesse Helms, Trent Lott, Conrad Burns, Connie Mack, Phil Gramm, Al Simpson, Don Nickles, Larry Pressler, Pete V. Domenici, Slade Gorton, John H. Chafee, Kit Bond, John C. Danforth, John Seymour.

[U.S. District Court for the District of Columbia]

UNITED STATES OF AMERICA *v.* CASPAR W. WEINBERGER, DEFENDANT.

(Holding a Criminal Term; Grand Jury 91–1 Sworn in on January 16, 1991)

Violations: Title 18 U.S.C. §1505 (Obstruction of Congress); Title 18 U.S.C. §1001 (False Statement); Title 18 U.S.C. §1621 (Perjury).

INDICTMENT

Count I (Obstruction of Congress)

Introduction

1. From 1981 to November 1987, the defendant, Caspar W. Weinberger, was the Secretary of Defense and a statutory member of the National Security Council ("NSC").

2. At all times relevant to this Indictment, the Secretary of Defense was the head of the Department of Defense ("DoD").

3. At all times relevant to this Indictment, the NSC was a government entity established by the National Security Act of 1947, whose statutory members were the President of the United States, the Vice President, the Secretary of State and the Secretary of Defense. The NSC advised the President on the integration of domestic, foreign and military policies relating to the national security; facilitated cooperation among the military services and other departments and agencies of the government in matters involving the national security; and reviewed, guided and directed foreign intelligence and covert action activities.

4. Beginning with the overthrow of the Shah of Iran on or about January 16, 1979, and the seizure of the United States Embassy in Iran and its staff on November 4, 1979, relations between the United States Government and the Government of Iran were characterized by mutual hostility and tension. At all times relevant to this Indictment, the United States Government embargoed arms sales to Iran. In January 1984, Secretary of State George P. Shultz designated Iran as a sponsor of international terrorism and, thereafter, the United States Government actively urged its allies not to permit the shipment of arms to Iran, in part because of its sponsorship of international terrorism and the continuation of the Iran-Iraq war.

5. In August 1985, Robert C. McFarlane, the Assistant to the President for National Security Affairs, briefed President Ronald Reagan, Secretary Shultz, and the defendant, Caspar W. Weinberger, about an Israeli proposal to sell arms to Iran to obtain the release of Americans held hostage in Lebanon. The defendant, Caspar W. Weinberger, and Secretary Shultz objected to the plan and advised the President against it. This plan and subsequent efforts to obtain the release of the hostages through the sale of arms to Iran became know as the Iran initiative.

6. In August and September of 1985, United States Government officials were informed that Israel had shipped 508 United States-supplied TOW anti-tank missiles to Iran with the expectation that the United States Government would provide Israel with replacement TOW missiles. Following these Israeli TOW shipments to Iran, the Reverend Benjamin Weir, an American held hostage in Lebanon, was released from captivity.

7. On November 9, 1985, Mr. McFarlane told the defendant, Caspar W. Weinberger, about new negotiations with Iranians and Israelis involving the exchange of arms for hostages.

8. On November 10, 1985, Mr. McFarlane told the defendant, Caspar W. Weinberger, that the current proposal involved the release of all American hostages and the transfer to Iran, through the Israelis, of Hawk anti-aircraft missiles.

9. On Tuesday, November 19, 1985, Mr. McFarlane asked the defendant, Caspar W. Weinberger, to try to obtain 500 Hawk missiles for sale to Israel to "pass on" to Iran in return for which five hostages would be released on Thursday, November 21, 1985. Major General Colin L. Powell, the Senior Military Assistant to the defendant, Caspar W. Weinberger, made efforts to determine whether 500 Hawk missiles were available and what legal requirements would apply to the sale. General Powell reported to the defendant, Caspar W. Weinberger, that 500 Hawk missiles could not be sold to Israel or Iran without Congressional notification and that breaking the sale into several packages of 28 Hawks each (to keep the value of each package under a $14 million Congressional notification threshold) would be a clear violation of law. The defendant, Caspar W. Weinberger, provided this information to Mr. McFarlane.

10. On Wednesday, November 20, 1985, the defendant, Caspar W. Weinberger, told Mr. McFarlane that he objected to the sale of arms for hostages. Mr. McFarlane responded that the President had already decided to do it through Israel.

11. Later that day, Wednesday, November 20, 1985, Mr. McFarlane informed the defendant, Caspar W. Weinberger, that the Israelis would sell 120 Hawks to the Iranians, and that there would be a hostage release on Friday, November 22, 1985.

12. On or about Sunday, November 24, 1985, a cargo of 18 Hawk missiles was sent from Israel to Iran. United States Government officials were informed that the Iranians were dissatisfied with the cargo, and additional Hawk missiles were not sent.

13. On December 7, 1985, the defendant, Caspar W. Weinberger, attended a meeting at the White House with President Reagan, Chief of Staff to the President Donald T. Regan, Secretary Shultz, Deputy Director of Central Intelligence John N. McMahon, newly-appointed Assistant to the President for National Security Affairs Vice Admiral John M. Poindexter, and Mr. McFarlane, who recently had resigned his position as Assistant to the President for National Security Affairs. Mr. McFarlane reviewed the development of the Iran initiative up to that point, including the TOW missile shipments prior to the release of the Reverend Weir and the November 1985 Hawk missile shipment. Mr. McFarlane then outlined a plan for additional sales of weapons through Israel to Iran to obtain the release of the remaining American hostages. The defendant, Caspar W. Weinberger, argued that the United States had an embargo in effect that made arms sales to Iran illegal, that the President could not violate the embargo, and that "washing" the transaction through Israel would not make it legal. President Reagan responded that he could answer charges of illegality but that he could not answer the charge that he had passed up a chance to free the hostages.

14. Following the December 7, 1985 meeting, President Reagan sent Mr. McFarlane to London to open negotiations with Iranian and Israeli representatives, without making any United States commitment to transfer arms.

15. On December 10, 1985, following Mr. McFarlane's return from London, the defendant, Caspar W. Weinberger, attended a meeting at the White House with President Reagan, Chief of Staff Regan, Director of Central Intelligence William J. Casey, Admiral Poindexter, and Mr. McFarlane. At the meeting, Mr. McFarlane recommended that no more arms to be sold to Iran, but he also reminded the group that the United States still had to replenish the 500 TOW missiles that Israel had shipped to Iran before the Reverend Weir was released.

16. On January 6, 1986, the defendant, Caspar W. Weinberger, met with Admiral Poindexter, who outlined a new Israeli plan to sell weapons to Iran to obtain the release of the American hostages. The defendant, Caspar W. Weinberger, objected to the plan.

17. On January 7, 1986, the defendant, Caspar W. Weinberger, attended a meeting at the White House with President Reagan, Vice President George Bush, Attorney General Edwin Meese, III, Director Casey and Secretary Shultz. At the meeting, the President favored the plan to sell missiles to Iran, through Israel, in exchange for the release of American hostages.

18. On January 17, 1986, President Reagan formally approved, by Presidential finding, a covert plan in which the United States would sell the weapons to Iran through an American intermediary, rather than through Israel.

19. In furtherance of this plan, during February 1986, 1,000 TOW missiles were sold to Iran.

20. Between May and November 1986, additional weapons and related parts were sold to Iran, and two Americans held hostage in Lebanon were released.

21. In early November 1986, there were public reports that United States Government officials had engaged in arms-for-hostages deals with Iran.

22. On November 10, 1986, the defendant, Caspar W. Weinberger, attended a White House meeting with President Reagan, Vice President Bush, Secretary Shultz, Attorney General Meese, Director Casey, Chief of Staff Regan, Admiral Poindexter, and Acting Deputy Assistant to the President for National Security Affairs Alton G. Keel, Jr. Admiral Poindexter briefed the meeting about operational details of the Iran initiative, but he omitted mention of the November 1985 Hawk missile shipment and did not acknowledge any United States role in or approval of any shipments prior to the Presidential Finding of January 17, 1986.

23. On November 12, 1986, the defendant, Caspar W. Weinberger, attended a briefing for Congressional leaders at the White House with the same officials who attended the No-

vember 10, 1986 meeting. Admiral Poindexter briefed the Congressional leaders about the Iran initiative but, once again, did not acknowledge any United States role in or approval of any 1985 shipments, including the November 1985 Hawk missile shipment. In response to a question by Senate Minority Leader Robert C. Byrd, Admiral Poindexter stated that the initial contacts with the Iranians had been in 1985 but there had been no transfer of material to Iran then because it took time to assess the contacts and issue a Finding.

24. On November 13, 1986, President Reagan addressed the nation and purported to set out the facts about the Iran initiative.

25. On November 19, 1986, President Reagan held a news conference about the Iran initiative. During the news conference President Reagan said "we, as I say, have had nothing to do with other countries or their shipments of arms or doing what they're doing," and he denied that a third country had been involved in shipments of United States arms to Iran. Later that evening, President Reagan acknowledged that, in fact, a third country had been involved. But the President did not disclose that arms shipments had taken place in 1985, that the third country was Israel, or that he had approved any of the 1985 shipments.

26. During the period leading up to November 24, 1986, officials within the White House and other Executive branch agencies expressed repeated concern that the 1985 arms shipments to Iran, and in particular the November 1985 HAWK missile shipment, had been illegal.

27. On or about November 20, 1986, Abraham D. Sofaer, the Legal Adviser of the Department of State, objected to proposed testimony by Director Casey, which stated that no one in the United States Government had contemporaneous knowledge of the November 1985 Hawk missile shipment. Mr. Sofaer was aware of a contemporaneous note from November 1985 indicating that Mr. McFarlane had told Secretary Shultz about the impending shipment. Secretary Shultz supported Mr. Sofaer's efforts to prevent this false testimony.

28. From November 21 until November 24, 1986, Attorney General Meese interviewed some of the United States Government officials who had known about the Iran initiative. One of the central topics in these interviews was the extent of knowledge of United States Government officials of the November 1985 Hawk missile shipment from Israel to Iran.

29. On Sunday, November 23, 1986, Prince Bandar bin Sultan, the Saudi Arabian Ambassador to the United States, met with the defendant, Caspar W. Weinberger. Prince Bandar told the defendant, Caspar W. Weinberger, that during a recent meeting with President Reagan's wife, Nancy Reagan, she had said that she thought Secretary Shultz had been disloyal to the President during the crisis resulting from the revelation of the Iran initiative and that he should be replaced as Secretary of State. Prince Bandar reported that he had then proposed to Mrs. Reagan that the defendant, Caspar W. Weinberger, replace Secretary Shultz, and that Mrs. Reagan had commented favorably on that proposal.

30. On November 24, 1986, Attorney General Meese met at the White House with President Reagan, Vice President Bush, Secretary Shultz, Director Casey, Chief of Staff Regan, Admiral Poindexter and the defendant, Caspar W. Weinberger. Mr. Meese told the group that the November 1985 Israeli Hawk missile shipment may have been illegal, but that the President did not know about the shipment at the time. At the end of the meeting, Mr. Meese asked whether anyone knew of anything else that had not been revealed. No one contradicted Mr. Meese's incorrect statement concerning President Reagan's lack of knowledge, although several of those present, including the defendant, Caspar W. Weinberger, had contrary information.

31. On November 25, 1986, Attorney General Meese announced at a press conference that proceeds generated from mark-ups in the sales of arms to Iran had been diverted to the Nicaraguan democratic resistance, also known as the Contras. In response to a question about the Iran initiative, Mr. Meese said that the President had not been informed about the November 1985 Hawk missile shipment until February 1986.

32. Following the November 25, 1986 press conference, several Congressional Committees conducted investigations and held hearings on these topics.

33. On December 17, 1986, the defendant, Caspar W. Weinberger, testified about the Iran initiative in closed session before the United States Senate Select Committee on Intelligence. With regard to the November 1985 Israeli Hawk missile shipment to Iran, the defendant, Caspar W. Weinberger, testified as follows:

Q. In the period of time from approximately November 16th to November 21st of 1985, the President was in Geneva for the summit meeting with Mr. Gorbachev. And at or about that same time, one of the arms transfers to the Iranians was under way and there is some evidence that there was discussions [sic] at various highest levels relative to that. Do you have any reason to recollect being aware at that particular point in time of discussions?

A. No. I was not in Geneva at those meetings and I did not have any recollection of that. I know that may have been about the time I saw one of these first [intelligence reports] that I mentioned to you earlier. But that was all—my impression was that the plan was not being put forward actively, was no longer being considered. And this was confirmed in my view in the President's reaction at the December 6th [sic—December 7] meeting that I have mentioned.

A. . . . And certainly there was no discussion in that meeting [December 7, 1985] of any transfers that Israel or anybody else had been permitted to make or anything of that kind.

34. For many years, the defendant, Caspar W. Weinberger, took daily notes of his activities. These handwritten notes contain an extensive record of what the defendant, Caspar W. Weinberger, did on a daily basis, and include summaries of telephone conversations and meetings. During 1985 and 1986, the defendant, Caspar W. Weinberger, took nearly 1,700 pages of daily notes. These daily notes contain, among other things, summaries of conversations and meetings described in paragraphs 7–11, 13, 15–17 and 29 of this Count of the Indictment. These notes disclose that in November 1985, in advance of the Hawk missile shipment to Iran, the defendant, Caspar W. Weinberger, was told that President Reagan had authorized the shipment of Hawk missiles to Iran, through the Israelis, in order to obtain the release of American hostages held in Lebanon.

35. During 1985 and 1986 the defendant, Caspar W. Weinberger, also took hundreds of pages of notes during high-level meetings, in addition to the daily notes described in the preceding paragraph. These meeting notes contain, among other things a record of what occurred at meetings described in paragraphs 15–17, 22, 23 and 30 of this count of the Indictment. These meeting notes show that, a few days after the November 1985 Hawk missile shipment, the defendant, Caspar W. Weinberger, informed President Reagan that such arms shipments were illegal, and that one year later, during the meeting of November 24, 1986 described in paragraph 30 above, Attorney General Meese expressed concern that the November 1985 shipment was illegal.

36. On January 6, 1987, the United States Senate, by Senate Resolution 23, established the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition ("Senate Select Committee"). On January 7, 1987, the United States House of Representatives, by House Resolution 12, established the Select Committee to Investigate Covert Arms Transactions with Iran ("House Select Committee"). The two Chambers instructed their respective Committees (collectively, "Select Committees") to work together and charged them with investigating, among other things, any activity of any officer or entity of the United States Government relating to the Iran initiative.

37. On March 11, 1987, the defendant, Caspar W. Weinberger, met with counsel to the Senate Select Committee and DoD General Counsel H. Lawrence Garrett, III. A Senate Select Committee staff memorandum prepared following the meeting states, in relevant part:

"Weinberger offered that some of his recollections of these matters were a bit fuzzy, and added 'I have the deepest sympathy for the President's memory problem.' He then added that he 'should have done what Henry Kissinger did after every meeting, he would dictate a thorough memo of what transpired, which was used in writing his memoirs. For me, after I finish a meeting, I go off to another meeting.' While Weinberger did not expressly deny that he kept diaries or dictated his thoughts about day's events, with these comments he clearly left the impression that he did not make such notes or recordings."

38. On or about April 4, 1987, the Senate Select Committee requested that the DoD produce to it all documents relating to the Iran initiative, including "notes, . . . diaries, . . . or other such records, of attendance at, recollection of, or participation in, . . . any meetings, discussions, conferences, or events pertaining to the Committee's inquiry, prepared by and/or in the possession of" certain individuals, including the defendant, Caspar W. Weinberger.

39. On or about April 14, 1987, the House Select Committee requested that the DoD produce to it all documents relating to the Iran initiative, including "calendars, logs, diaries, appointment books, records of meetings, and handwritten notes keep by or on behalf of" certain individuals, including the defendant, Caspar W. Weinberger.

40. The defendant, Caspar W. Weinberger, ordered the DoD Office of General Counsel to produce to the Select Committees documents responsive to the requests of the Select Committees. The defendant, Caspar W. Weinberger, instructed senior officials in the DoD to comply with the requests, but withheld and concealed his daily notes and, with one exception, his relevant meeting notes. As a result, none of the defendant's, Caspar W. Weinberger's, daily notes and only one of his relevant meeting notes were provided to the Select Committees.

41. On June 17, 1987, members of the Select Committees' staffs took deposition testi-

mony under oath from the defendant, Caspar W. Weinberger, in his office at the Pentagon. DoD General Counsel Garrett and DoD Assistant General Counsel Edward J. Shapiro also attended the deposition. One of the purposes of the questioning was to determine whether the defendant, Caspar W. Weinberger, had kept notes. During the deposition, the defendant, Caspar W. Weinberger, concealed the existence of his daily notes and the extent of notes he had taken during meetings in 1985 and 1986.

42. Pursuant to House Resolution 12, which established the House Select Committee, the June 17, 1987 deposition is deemed to have been taken in the District of Columbia.

43. During the June 17, 1987 deposition, the defendant, Caspar W. Weinberger, made the following statements:

Q. We have gone over a number of meetings?

A. Yes.

Q. Of course, your recollection is better on some and fainter on others.

A. Yes.

Q. Is there any way that you have of making a record of the highlights of meetings of this nature?

A. Now?

Q. No, then.

A. No. there wasn't. I did dictate a memorandum on this particular one [referring to a November 10, 1986 meeting], but I've often said that I understand that Henry Kissinger made a memo of every meeting he ever attended and that enabled him to write his book rapidly. I wish I had done that with day one of the administration. I am usually getting ready for the next meeting and don't have time to write these memorandums. I took notes about this one and dictated this memorandum because it seemed to be important.

Q. Do you ever take notes that are not dictated or make jottings when you get back?

A. Yes, occasionally, but comparatively rarely. I don't know we kept those in any formal way. I don't think they have been filed or labeled. My handwriting is notoriously bad. I have trouble even reading it myself. Occasionally take a few notes, but not really very often.

Q. If there is any chance there are—

A. I think we made this examination and whatever there is is in our so-called C&D, Correspondence and Directives. They have been asked to paw through everything.

Q. Are you aware of any other potential source of—that might be—have made a record that might supplement your memory of some of these meetings?

A. Well, I don't really think of anything. We could paw through everything again. We have done that, I think, pretty well.

44. Thereafter, until he left the DoD, the defendant, Caspar W. Weinberger, withheld the aforementioned notes. Thereafter, he deposited these notes in the Library of Congress in the District of Columbia, where public access to the notes was subject to his exclusive personal control.

45. It was material to the Select Committees' investigations to obtain any written materials, including contemporaneous notes, of the defendant, Caspar W. Weinberger, that contained information relating to what the President and other senior government officials had known or done in connection with proposals to ship arms to Iran in 1985, contributions to the Contras, and other topics within the scope of the investigation of the Select Committees.

The Grand Jury Charges

46. From on or about March 11, 1987, up to and including August 3, 1987, the defendant, Caspar W. Weinberger, acting unlawfully, willfully and knowingly did corruptly influence, obstruct and impede and endeavor to influence, obstruct and impede the due and proper exercise of the power of inquiry of the Select Committees in that, during the aforesaid time period, he caused the DoD not to provide to the Select Committees, in response to their document requests, handwritten notes relating to the Iran initiative and support for the Contras, by

a. withholding his daily notes and all but one of his relevant meeting notes from the Select Committees, and

b. concealing from the Select Committees the existence of these notes while professing to comply with the document requests of the Select Committees,

all with the intent to corruptly influence, obstruct and impede the due and proper exercise of the power of inquiry of the Select Committees.

(In Violation of Title 18, United States Code, Section 1505.)

Count II (False Statement)

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. At all times relevant to this Indictment, the Contras were insurgents engaged in military and paramilitary operations in Nicaragua.

3. From in or about December 1981 until on or about October 11, 1984, the United States Government, acting principally through the CIA, pursuant to written Presidential Findings, had provided the Contras with financial support, arms and military equipment, as well as with supervision and instruction, tactical and other advice, coordination, intelligence and direction.

4. On October 12, 1984, Public Law 98-473 was enacted. It prohibited funds available to the CIA, the DoD, and certain other agencies and entities of the United States from being obligated or expended in support of military or paramilitary operations in Nicaragua, stating in relevant part:

"During fiscal year 1985 no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual."

This provision of law was commonly known as the Boland Amendment.

5. On or about March 13, 1985, General John W. Vessey, Chairman of the Joint Chiefs of Staff, informed the defendant, Caspar W. Weinberger, that Prince Bandar bin Sultan, the Saudi Arabian Ambassador to the United States, had stated that Saudi Arabia was contributing funds to the Contras. The defendant, Caspar W. Weinberger, repeated this information to Mr. McFarlane.

6. On or about March 15, 1985, the defendant, Caspar W. Weinberger, informed Director of Central Intelligence Casey and Deputy Director of Central Intelligence McMahon that he had heard that Prince Bandar had earmarked $25 million for the Contras, in $5 million increments.

7. During the summer of 1986, reports appeared in the press alleging that the Saudis had contributed money to the Contras as part of an informal arrangement connected with the sale of AWACs aircraft to Saudi Arabia. A July 27, 1986, article in the *San Francisco Examiner* cited intelligence sources who stated that the Saudi contribution "was but the latest example of a longstanding practice of financing U.S. covert operations with money set aside from foreign military sales." By letter dated August 12, 1986, Representative Dante B. Fascell, Chairman of the United States House of Representatives Committee on Foreign Affairs, sent a copy of the *San Francisco Examiner* article to the defendant, Caspar W. Weinberger, and asked him in respond to these allegations.

8. The defendant, Caspar W. Weinberger, responded to Congressman Fascell in a letter dated September 4, 1986, which began as follows:

"I am pleased to have the opportunity to respond to your letter of August 12, in which you raise a number of important questions regarding alleged funding of Contra aid through the Foreign Military Sales system. I, too, saw the San Francisco *Examiner* article and regarded the allegation of Saudi funding of U.S. assistance to anti-government forces in Nicaragua as so outlandish as to be unworthy of comment from the Department."

The Grand Jury Charges

9. On June 17, 1987, in a deposition deemed to have been taken in the District of Columbia, the defendant, Caspar W. Weinberger, unlawfully, knowingly and willfully made a material false, fictitious and fraudulent statement to a department or agency of the United States, to wit, the House Select Committee, in a matter within its jurisdiction, to wit, its investigation of the Iran initiative and certain aspects of assistance for the Contras.

10. It was material to the House Select Committee's investigation to determine what the defendant, Caspar W. Weinberger, had known about Saudi Arabian contributions to the Contras.

11. On June 17, 1987, the defendant, Caspar W. Weinberger, appearing as a witness before duly authorized staff of the House Select Committee, made the following statement, knowing it to be false, fictitious and fraudulent:

Q. Do you recall learning at some point that the Saudis or some people connected with the Saudis provided funds for the contras?

A. *No. I don't have any memory of any contra funding or of anything connected with the Saudis that I can remember now.*

12. The above italic material statement made to the duly authorized staff of the House Select Committee by the defendant, Caspar W. Weinberger, was false, fictitious and fraudulent, as the defendant, Caspar W. Weinberger, then and there well knew, in that he had been informed in March 1985 that the Saudi Ambassador was contributing funds to the Contras.

(In Violation of Title 18, United States Code, Section 1001.)

Count III (Perjury)

The Grand Jury Charges

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. On July 31, 1987, in the District of Columbia, the defendant, Caspar W. Weinberger, having duly taken an oath before competent tribunals, to wit, the Select Committees, in a case in which the law of the United States authorizes an oath to be administered, that he would testify truthfully in proceedings before the Select Committees, did willfully and contrary to said oath make a material statement that he did not believe to be true, as hereinafter set forth.

3. It was material to the Select Committees' investigation to determine whether the President and other high-level United States Government officials, including the defendant, Caspar W. Weinberger, knew in November 1985 of a proposed transfer of Hawk missiles from Israel to Iran.

4. At the time and place set forth in paragraph 2 of this Count, the defendant, Caspar W. Weinberger, appearing as a witness under oath before the Select Committees, was asked the following question and gave the following answer, believing the italic material declaration not to be true:

Mr. EGGLESTON: The Committee has also received testimony that on that weekend of November 23 and November 24, [1985] there was a shipment of 18 Hawk missiles from Israel to Iran. This [Exhibit 8] was a paper that was written immediately prior to that time. Let me just ask you: Did you have any knowledge that that transfer was to take place?

Secretary WEINBERGER: *No, I did not.*

5. The above italic material declaration made under oath before the Select Committees by the defendant, Caspar W. Weinberger, was not true, as the defendant, Caspar W. Weinberger, then and there well knew, in that:

a. he had been informed by Mr. McFarlane, on or about November 10, 1985, of a proposal that, in connection with the release of Americans held hostage in Lebanon, Israel would ship Hawk missiles to Iran;

b. he had been asked by Mr. McFarlane, on or about November 19, 1985, to try to get 500 Hawk missiles for transfer to Iran in connection with the release two days later of Americans held hostage in Lebanon;

c. he had been informed by Mr. McFarlane, on or about November 20, 1985, that President Reagan had decided to sell Hawk missiles to Iran through the Israelis; and

d. he had been informed by Mr. McFarlane, on or about November 20, 1985, that Israel would sell 120 Hawk missiles to Iran, and that Americans held hostage in Lebanon would be released two days later.

(In Violation of Title 18, United States Code, Section 1621.)

Count IV (Perjury)

The Grand Jury Charges

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. On July 31, 1987, in the District of Columbia, the defendant, Caspar W. Weinberger, having duly taken an oath before competent tribunals, to wit, the Select Committees, in a case in which the law of the United States authorizes an oath to be administered, that he would testify truthfully in proceedings before the Select Committees, did willfully and contrary to said oath make a material statement that he did not believe to be true, as hereinafter set forth.

3. It was material to the Select Committees' investigation to determine whether the defendant, Caspar W. Weinberger, had contemporaneous knowledge of the Israeli desire and need for the replenishment of weapons that Israel was sending to Iran.

4. At the time and place set forth in paragraph 2 of this Count, the defendant, Caspar W. Weinberger, appearing as a witness under oath before the Select Committees, was asked the following question and gave the following answer, believing the italic material declaration not to be true:

Mr. EGGLESTON: And in addition, there are various documents which are in evidence before the Committee which refer to the Israeli desire and need for replenishment of weapons that the Israelis were sending. Did you know that replenishment was an issue?

Secretary WEINBERGER: *No. I have no memory of that.*

5. The above italic material declaration made under oath before the Select Committees by the defendant, Caspar W. Weinberger, was not true, as the defendant, Caspar W. Weinberger, then and there well knew, in that:

a. he had in November 1985 ascertained the availability of Hawk missiles with which to supply Israel;

b. he had been informed by Mr. McFarlane, on or about November 20, 1985, that President Reagan had decided to provide Hawk missiles to Iran through Israel; and

c. he had been informed, on or before December 10, 1985, that the United States Government still had to replenish 500 TOW missiles to Israel that Israel previously had transferred to Iran.

(In Violation of Title 18, United States Code, Section 1621.)

Count V (False Statement)

The Grand Jury Charges

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. On December 19, 1986, the United States Court of Appeals for the District of Columbia Circuit, Division For the Purpose of Appointing Independent Counsels, appointed Lawrence E. Walsh Independent Counsel with jurisdiction to investigate possible federal criminal violations by United States Government officials "relating in any way" to the Iran initiative and support for the Contras.

3. In or about December 1986, the Independent Counsel was assigned Federal Bureau of Investigation ("FBI") personnel to assist the Independent Counsel in his investigation. Since that time the Independent Counsel and his staff ("Office of Independent Counsel" or "OIC") have interviewed numerous witnesses in connection with his investigation. Such interviews are conducted in the presence of a Special Agent of the FBI who takes contemporaneous notes of the interview and later prepares a report of the witnesses' statements.

4. On October 10, 1990, members of the Independent Counsel's staff and a Special Agent of the FBI interviewed the defendant, Caspar W. Weinberger, in the District of Columbia. During this interview, the defendant, Caspar W. Weinberger, unlawfully, willfully and knowingly made material false, fictitious and fraudulent statements to a department or agency of the United States, to wit, the Office of Independent Counsel, in a matter within its jurisdiction, to wit, an investigation into possible violations of federal criminal law relating to the Iran initiative and support for the Contras.

5. It was material to the Independent Counsel's investigation to determine what written materials the defendant, Caspar W. Weinberger, had created that might contain evidence relating to the Iran initiative and support for the Contras.

6. On October 10, 1990, the defendant, Caspar W. Weinberger, in an interview with members of the Independent Counsel's staff and a Special Agent of the FBI, made the following statements, as recorded in the Special Agent's report of the interview, knowing the underscored material statements to be false, fictitious and fraudulent:

Weinberger stated he had some disagreements with the April, 1988, 302 [the Special Agent's written report of the April 1988 interview]. His first disagreement concerned the sentence on page 2 that stated "He (Weinberger) had a habit of making notes on any piece of paper he could get his hands on." *Weinberger stated this sentence is misleading because it infers that it was his habit to make notes throughout his seven years as Secretary of Defense, which was not the case.*

Weinberger advised that during his first year as Secretary of Defense, from approximately 1981 through 1982, he tried to take some notes when he attended various high-level meetings. Often he would write on the back of pages in the briefing books that were furnished to him for the meetings. At the end of the meeting, he would turn the books in to his staff and they were broken apart so they could reuse the covers.

Weinberger advised that his secretary, Kay Leisz, used to save his notes from these briefing book pages because Weinberger had told her that he wanted to dictate memoranda of the meetings based on them. After about a year, Leisz came up to Weinberger and said, "You're never really gonna dictate from these notes are you?" Weinberger agreed that he was too busy to dictate memoranda from these notes and he gave Leisz permission to discard them. From this point on, Weinberger rarely took notes, and when he did, Leisz never saved them for him, except for rare occasions.

According to Weinberger, after his first year as Secretary of Defense, he did not, as a rule, take any notes when he met with the President or other cabinet members. Weinberger stated that it would have been in "bad form" to take notes when having a private or relatively private discussion with other high-ranking Administration officials. No other cabinet member did so either, as far as Weinberger is aware. Weinberger specifically recalls not taking any notes during his few meetings with the President and other cabinet members when the Iranian arms sales matter was discussed. No notes were taken by any participant of these meetings, as far as Weinberger is aware.

Weinberger was asked which notes or documents he consulted to prepare himself for his testimony concerning the Iran/Contra matter before the Congressional Committees. Weinberger stated he only would have used his notes taken at the November, 1986, Meese briefing, and a copy of the McFarlane memorandum with his marginalia on it. Weinberger is not aware of anything else he could have consulted.

After meetings, Weinberger did not go back to the Pentagon and make a record of the meeting he had just attended, nor did he designate others to do so.

Weinberger stated he did not take notes of his phone conversations.

AC [Associated Counsel] Gillen advised Weinberger that the OIC [Office of Independent Counsel] has a document, contemporaneously written by someone Weinberger would consider credible, which alleges that Weinberger has withheld some of his notes concerning the Iran/Contra matter. Gillen would not identify the author of the document or further describe the document.

Weinberger responded that the allegation is not true and he is distrustful of the document's author and his motivations. Weinberger stated that at an early cabinet meeting, President Reagan instructed everyone to give everything they had to the various investigators, and Weinberger had always followed these instructions. Weinberger stated he is not aware of any of his notes regarding Iran/Contra that have not been turned over. Weinberger stated there may be some over-

sight at DoD or elsewhere concerning the document production, but he has not deliberately withheld anything. Weinberger reiterated that he always instructed his staff and others at DoD to turn over all notes and documents when requested.

7. The above material statements made to a Special Agent of the FBI by the defendant, Caspar W. Weinberger, in the presence of members of the Independent Counsel's staff were false, fictitious and fraudulent, as the defendant, Caspar W. Weinberger, then and there well knew, in that:

a. he had, for years, including nearly seven years as Secretary of Defense, regularly taken daily notes of his meetings and telephone conversations;

b. he had, as Secretary of Defense, taken notes during meetings with the President and other high officials including meetings related to the Iranian arms sales matter, that contained a record of what occurred at those meetings;

c. he had extensive notes that had never been provided to the Independent Counsel or the Select Committees; and

d. these notes contained information relevant to the Independent Counsel's investigation .

(In Violation of Title 18, United States Code, Section 1001.)

LAWRENCE E. WALSH,
Independent Counsel.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, let me express my, for one, commendation to the Senator from Michigan for his effort to seek reauthorization for this legislation and my regret that Members on this side in particular have seen fit to indicate to the leader that they would not allow a full debate and vote on this measure.

I think all of us are committed to the proposition that justice must be done. Not only must it be done, it must appear to be done. And that is essentially at the core of the legislation known as the Independent Counsel Act.

There is in fact an inherent conflict of interest whenever an allegation is leveled against a high ranking Cabinet official or Executive office official and the Justice Department is then called upon to conduct an investigation to determine the validity of those allegations.

This is clearly the case, for example, when allegations were leveled against Edwin Meese. And he, although a frequent and constant critic of the legislation itself, was the first one to seek the appointment of an independent counsel. And he did so because he knew that if his Justice Department had cleared him of the allegations leveled against him, a cloud would remain upon his name and upon his office. So the appearance of justice would not have been done, even though justice might have been done. So the appearance of justice is just as important as justice itself, in terms of maintaining public support for our judicial system.

There is a proposal that was offered by Members on our side to mandate coverage of every Member of Congress. Let us be fair, because we have included roughly 50 Members of the executive branch, let us mandate all 535 Members of Congress. Without that, the law is unfair.

No. 1, that is completely untrue. Members of Congress already are covered under existing law with the so-called catchall provision.

No. 2, Senator LEVIN and I specifically amended the act to give the Attorney General, the Justice Department specific authority to call upon an independent counsel whenever he or she determined it was in the best interest of justice to do so.

I might point out from a historical point of view, the Justice Department has never hesitated, never hesitated to prosecute a Member of Congress for criminal wrongdoing. Some would say they have even relished in that particular chore. But nonetheless, they have the option of calling upon an independent counsel to carry out that particular burden if they should choose to do so.

What Members on this side tried to do, however, was to mandate coverage for every Member of Congress, no matter whether freshman, senior or leader or either side of the aisle. What that would have done would be not to guarantee coverage but to guarantee a court ruling that it would be unconstitutional.

If ever there was a clear-cut case of an unconstitutional law it would be this: To mandate that whenever an allegation is made against any Member of Congress, no matter how recent or senior, the Justice Department cannot, by law, investigate or prosecute that case. That is a clear violation of the separation-of-powers clause under the Constitution. For the Justice Department and, indeed, Members on our side to argue that it was imperative that we have this provision, let me say it is not only an irony, as I have written with Senator LEVIN, it is a complete canard.

I express my deep regrets that we have come to this point. I think that those on this side should come to rue the day when a member of the Democratic Party, Bill Clinton, might become President of the United States in the next session, they might rue the day they presided over the final rights of this legislation. When an allegation might be leveled against another administration, a Democratic administration, I think there will be calls to have an independent counsel appointed because we could not trust that Justice Department to fully and fairly investigate the allegations.

I hope the Senator from Michigan is true to his words—I know he will be—that this legislation will not fade. We will come back in the next session of Congress and we will reintroduce this and proceed.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I will take a minute to indicate I do not take exception to many of the statements made by my colleagues, but I think there comes a time when we have to decide we are going to stop legislating if we are going to have an adjournment. We decided that probably will come on October 5.

This is a very controversial measure, as Members on both sides know. It seemed to many of us, I am not certain the exact number who signed the letter, 29 or 30, that this was not something to be done in an hour, 2 hours, a day or maybe even 2 days. So it seems to me there has not been a final judgment made. What we are saying is that it will not be done this year. That means it probably will be coming up next year, as I am certain it will. We can have full debate. We will have adequate time at that time.

So I hope the letter the Senator from Michigan inserted in the RECORD is received in the right spirit. Sooner or later we have to say this is it. We cannot keep passing everything, even though I know both, the Senator from Michigan worked very hard, as the Senator from Maine, my colleague, Senator COHEN. I respect them for that. I think we have made the right decision.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I commend the Senators from Michigan and my friend and colleague from Maine for their diligence and their leadership on this important issue. I wish it were possible to complete action on the measure. I support the legislation. I support them. I agree with their assessment. But under the rules, the distinguished Republican leader has the right to object, as he did, and, therefore, we will not be able to proceed to that measure.

UNANIMOUS-CONSENT REQUEST—H.R. 3371

Mr. MITCHELL. Mr. President, with respect to one other measure, which the distinguished Republican leader and I have discussed many times publicly and privately, it has been our hope and intention and effort to have a vote on the Omnibus Crime Control Act. That is the conference report to accompany H.R. 3371. We have had, I believe, two cloture votes and have been unable to obtain cloture because of opposition to the measure by our Republican colleagues.

It is my hope that we can proceed to have a cloture vote before the end of this session, and my hope had been that we could proceed to the measure this evening, file cloture and then have the cloture vote on Thursday morning under our rules. I have discussed this with the distinguished Republican

leader and, therefore, I now ask unanimous consent that the Senate proceed to the Omnibus Crime Control Act, the conference report to accompany H.R. 3371.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I shall object because the agreement we just entered into would preclude that action at this time. Again, it is my hope if in fact there is another vote it will have to come sometime maybe on Friday if cloture is filed tomorrow, but I hope to Members on this side—nothing has changed. The bill is in the same sorry state it was before the last cloture vote, though there is still ongoing negotiations with the chairman of the committee, Senator BIDEN, with the ranking Republican, Senator THURMOND and with the Attorney General, William Barr.

So there is still some shred of hope they might reach an agreement. In fact, it was our understanding they almost reached an agreement. Then there was a change in the attitude of some with reference to habeas corpus. I do not know the details. But they were very, very close. It is still possible that could be resolved between now and the end of this week. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I thank my colleague. I yield the floor. I believe we will not proceed to resume consideration of the START Treaty.

EXECUTIVE SESSION

The PRESIDING OFFICER. The Senate will now return to executive session.

TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START TREATY)—TREATY DOC. NO. 102-20

PROTOCOL TO THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—TREATY DOC. NO. 102-32

The Senate continued with the consideration of the treaty and the protocol.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized.

AMENDMENT NO. 3270

Mr. WALLOP. Mr. President, I call up amendment No. 3270 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 3270.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all mobile ICBM's, and all launchers for mobile ICBM's, shall be eliminated."

Mr. WALLOP. Mr. President, those of the Senate who have left recognized the Senator from Wyoming did not wish to have this amendment read. Our colleagues, having seen the sign of the last vote today, have fled the Chamber and would not be impressed by reading the rest of the amendment.

Basically, what it does is it calls for a ban on all mobile systems, ICBM's and launchers for multiple ICBM's be eliminated before the treaty, the protocol and the annex come into force.

Mr. President, I will not belabor this debate tonight. There is no one here to read it, listen to it and the RECORD will not be out to read it prior to the Senate's convening to vote upon it tomorrow. But one of the indisputable facts about the START Treaty is that under its terms, the former Soviet Union, the Republic of Russia and the successor States will enjoy a capability that is, as a practical matter, denied the United States, one that readily lends itself to totally undetected noncompliance.

Russia is entitled to deploy not one but two mobile intercontinental ballistic missile systems, the rail mobile SS-24 and the road mobile SS-25. It was demonstrated amply in the war with Iraq, Mr. President, it is exceedingly difficult to detect mobile missiles. In fact, in that perfect environment of the desert, mostly clear skies, very little foliage or any other things, we did not ever once succeed in detecting a mobile missile before it fired. That same cannot be said of the circumstances geographic in the Republic of Russia.

It is worth noting that the degree of difficulty involved in monitoring the former Soviet mobile ICBM's in the woods of Siberia make the job of finding Saddam's more primitive, numerous Scuds deployed in the desert appear trivial. The United States insisted upon and ultimately obtained a Soviet agreement to a complete ban on such missiles of intermediate and shorter range as a part of the INF Treaty.

This Senate will not remember, because it cannot remember from day to day what it does, but this Senate hailed its achievement of eliminating those mobile missiles and its complete ban. The Senate is now about to endorse not only the retention of two classes of mobile missiles but the expansion of one of those from 60, which exist, to 250.

Now, incredibly, when the Congress predictably decided not to approve any funding for the U.S. rail or road mobile ICBM's, the administration did not revisit the question with the Soviets, and as a result, Mr. President, START authorizes the former Soviet Union to deploy substantial numbers of mobile missiles and to maintain, in addition, stocks of as many as 500 of these in the nondeployed status, which just was a matter of little or no concern to the Senators on this floor.

We are unable to verify Russia's compliance with either of these limitations, and I say, Mr. President, it is an absurd and reckless position for the United States to be in. It is especially true if, as I think we have reason to believe, the Russians are already exploiting loopholes in or simply violating the START Treaty with respect to a follow on to the SS-25, so-called Fat Boy missile. Even as we speak, Mr. President, it has been stated on this floor several times during this debate, not denied either in classified session or otherwise, that the Fat Boy missile is a violation of the terms of this treaty before we enter into it. This is the danger that Americans should understand before this Senate rushes down its headlong pursuit of ratification of this treaty.

So, accordingly, I hope my colleagues will join me in an amendment that in one fell swoop eliminates a strategically important de facto inequality of the START Treaty and enhances its verifiability. My amendment would modify START so as to ban mobile ICBM's and their launchers as they have been banned by this Congress on Americans, just as we did for the same and relevant systems in the INF Treaty, which has been spoken of on this floor time and time again as one of the great arms control achievements.

Mr. President, we ought to remember the lesson that we tried to teach ourselves then not forget it at this moment in time as we debate and finally move to the resolution of ratification on this treaty.

Mr. President, I say to my patient colleagues from the Senate Foreign Relations Committee that would conclude the arguments of the Senator from Wyoming with regard to this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank the Chair.

Alteration of the limit would be a repudiation of the basic treaty structure and a step towards rejecting the treaty. Such a step also would require renegotiation of the whole treaty with all four successor States—Russia, Ukraine, Byelarus, and Kazakhstan. In my mind, the word "killer amendment" is too strong, but it is a mortal blow amendment and, I believe, the amendment should be rejected, as were the other ones.

In addition, the prospective START II or deMIRVing treaty would eliminate the mobile MIRVed missiles. Land-based mobile missiles with single warheads could then be retained and, thus, this amendment anticipates reductions that are either not yet finalized or not even yet planned. Like earlier amendments, it would have a very deleterious effect on the START Treaty and would be a mortal blow to it.

Mr. LUGAR. Mr. President, I will add to the arguments of the distinguished chairman of the Foreign Relations Committee the fact that some critics of the treaty have complained that the former Soviet Union had mobile missiles and its successors have mobile missiles, but I point out that the United States has one of the best mobile missiles in the world, namely, the Trident II. And I make that point because the question is survivability of our deterrent. In the case of the United States, we gain survivability by moving mobile missiles over vast areas of the high seas. The Russians and the successors of the Soviet Union gained survivability through mobility on land. In both cases, the goal is survivability, a deterrent which is credible to the other side.

I make this point because there is no particular military significance, at least in the judgment of our negotiators, to our having a land mobile missile. Indeed, the administration and Congress have discussed and debated that issue at some length and come to a judgment that is not in our best interest, financially, I suspect, and in view of the other deterrent possibilities that we have.

So, therefore, this is not a fatal flaw, in my judgment, to the treaty but, rather, I point out the degree to which both sides have tried to meet security interests and found this to be satisfactory for many years.

Let me add, just to complete this part of the debate, Mr. President, that mention has been made of verification of mobile missiles and difficulties that are involved. Indeed, throughout the debate on many occasions the question has been the monitoring of Scuds in the gulf war and the difficulties the United States and its allies had in terms of that verification.

I point out, Mr. President, that our confidence in the United States ability to monitor mobile ICBM's is based upon our experience and knowledge derived now for more than 15 years of monitoring such systems in the former Soviet Union. The mobile systems covered under the START Treaty, especially the road mobile SS-25, are similar to the SS-20 system we have successfully monitored under the terms of the INF Treaty.

One factor that contributed to our lack of success during the gulf war was that our national technical resources have been focused historically largely on the threat of the former Soviet Union. This focus did not allow us similar expertise in counting and tracking Iraqi Scud launchers, which, in fact, are smaller and therefore easier to hide. Under START, on the other hand, the inspection provisions give us additional tools to the ones we already have in abundance to monitor mobile missiles that we did not have during the gulf war.

There is a significant difference, Mr. President, between monitoring deployment levels and tactical targeting of deployed mobile missiles. Time-sensitive tactical targeting was a major problem facing us in the gulf war monitoring.

Therefore, Mr. President, I call for defeat of this amendment. I join the distinguished chairman of our committee in underlining that adoption of the amendment would require renegotiation of the entire treaty with all four successor states, and my point is that that is militarily unnecessary and the negotiators have, in fact, fashioned again in this portion an excellent treaty provision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Mr. President, reserving the right to object, my impression is that the distinguished Senator from Wyoming, the proposer of the amendment, has left the floor and does not intend to continue the debate. It may very well be that the distinguished Senator from Rhode Island and I are no longer needed for continuing the debate either. It may be possible for time to be yielded back prior to the distinguished Senator from Illinois gaining the floor. I inquire of the——

Mr. SIMON. Mr. President, I have no objection to that. I am sure my colleagues will want to stay and listen to me speak as if in morning business. But on the outside chance that they would not, I certainly accede to their request.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I am advised by the distinguished chairman that we may also have additional roles, namely in the wrap up of business this evening. Therefore I do not object to the unanimous-consent request of the Senate from Illinois, and we look forward to hearing his statement.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. No objection having been entered, the Senator from Illinois is recognized.

MORNING BUSINESS

Mr. SIMON. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

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

SOUTH DAKOTA HIGHWAYS RANK NO. 2

Mr. PRESSLER. Mr. President, I rise to recognize the fine work of the South Dakota Department of Transportation. A study recently conducted by the University of North Carolina ranked South Dakota's highway system as the second best in the Nation. To establish this ranking, the study analyzed highway spending and the resulting performance of State transportation systems from 1984 to 1990. South Dakota was among the States with the best overall highway and bridge conditions, minimal traffic congestion and low-cost highway repair practices.

South Dakota's Secretary of Transportation, Richard Howard, along with the rest of the members of the South Dakota Department of Transportation and the South Dakota transportation commission deserve to be recognized for their fine work. Their careful planning and solid management skills have created a State highway system virtually unparalleled in the Nation.

Mr. President, in recognition of the great work of the South Dakota Department of Transportation and my State's transportation commission, I ask unanimous consent that an article published in the Pierre, SD, Capital Journal be printed in the RECORD immediately following my remarks.

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

[From the Capital Journal, Sept. 24, 1992]

STUDY RANKS DOT AS SECOND BEST IN NATION

(By Leta Nolan)

A University of North Carolina study has given high marks to South Dakota's Department of Transportation as the second best highway system in the nation.

The study shows that New Mexico, South Dakota, South Carolina, Mississippi, Arkansas and Wyoming had the best overall highway and bridge condition, minimal congestion and low-cost highway repair practices.

The announcement of the study comes on the heels of the announcement that the state will receive an additional $4.3 million in federal aid highway funds for use in 1992. The state is receiving the extra money because it was able to fully obligate the $117.26 million it was originally allocated.

The additional money is given because some states are not able to obligate all of their apportioned funds and these unused funds are then redistributed to states which can obligate the funds.

"Because South Dakota has successfully programmed, designed and let to contract projects to obligate the state's yearly apportionment, South Dakota has received over $20 million of additional funding over the past six years through this redistribution of obligation authority," said Dick Howard, secretary for the transportation department.

The North Carolina study compared the performance of the 50 state highway systems over the past eight years. The goal of the research was to develop measures of performance and to use those measures to identify how states rank in 13 different categories.

The categories include system size, revenues, expenditures, pavement condition, congestion, bridge condition and accidents for the years 1984, 1987, 1989 and 1990. The data is collected from information the states are required to submit to the Federal Highway Administration.

"In South Dakota, our highway construction and maintenance projects don't just happen," said Gov. George Mickelson. "There is a lot of careful, long-range planning and good management.

"We have a five-year construction plan that is constantly evaluated and updated. Credit for South Dakota's high marks in this study should go to the state transportation department and the citizens who serve on our transportation commission."

Howard said part of the department's success was due to an extra 5 cent gas tax created in 1988.

"Thanks to the governor's leadership and the Legislature's support of a 5 cent a gallon increase in fuel tax in 1988, our department has been able to match available federal funds," said Howard. "It has allowed us to keep up with the most needed reconstruction and maintenance of highways and bridges.

"To be rated number two in the nation based on these criteria is high tribute to the dedication and performance of transportation department employees."

The five lowest ranking states in the study were Rhode Island, Arizona, Maryland, California and New York.

ATOMS-FOR-PEACE IN THE 1990'S

Mr. PRESSLER. Mr. President, I was greatly interested in President Bush's recent announcement that the United States has agreed to buy weapons-grade uranium from Russia. Although many of the details must still be worked out, it appears the United States will purchase as much as 500 tons of highly enriched Russian uranium. As one who for many years has supported the concept of turning the uranium in our nuclear weapons into fuel for our powerplants, I applaud the President's decision. It is an excellent step in the direction of nuclear nonproliferation.

In July 1985, I asked the Congressional Research Service to prepare an analysis of the advantages and disadvantages of disposing of surplus nuclear materials from dismantled nuclear warheads by consuming them as fuel in nuclear powerplants. That study was completed in May 1987. The CRS report contains some extremely interesting analyses and findings.

The study considered options for the disposition of both highly enriched uranium and weapons grade plutonium. This is an issue we must consider as both Russia and the United States begin reducing their nuclear weapons arsenals. Destroying only the weapons leaves behind a very dangerous and highly sought commodity—the fissile materials. We must ensure these materials do not end up in the hands of irresponsible governments or terrorists. We do not have many viable disposal options.

We could attempt to permanently store the materials under some kind of national, bilateral, or multilateral control. This option is obviously the easiest, but just as obviously presents serious security risks that weapons grade materials might, at some point in the future, fall into the wrong hands.

Others have suggested, and the CRS report considers, various disposal options, including launching fissile materials into deep space; dissolving the materials and discharging them into the sea where they would be diluted to low levels of concentration; and burying the uranium and plutonium, either in deep seabeds or in deep holes drilled into the Earth. The CRS study concludes each of these options, while possible, appears impractical. In addition, each would be strongly opposed as dangerous to the public health and environmental quality.

The report also properly notes that these options would require throwing away material produced at great cost and with a high potential energy content without getting any economic benefit in return. The CRS study concludes that "[f]or the present * * * indefinite storage of weapons grade uranium or dilution to conventional reactor fuel grade appear to be the most workable alternatives for disposal."

Mr. President, at the time the CRS report was prepared, neither the collapse of the Soviet Union nor the extent of reductions in the nuclear weapons stockpiles of the two countries could be foreseen. Thus, these extremely important factors were not considered in the CRS analysis.

For this reason, I am asking CRS to update the report it completed in 1987 at my request. However, the original version of this study, entitled "Nuclear Material From Dismantled Warheads: What To Do With It and How To Verify Its Disposal," contains considerable information which would be very useful in reaching the policy decisions necessary to turn the most destructive elements of the cold war into energy to fuel a generation of change. For this reason, I ask unanimous consent that the CRS report be printed at this point in the RECORD.

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

[CRS Report for Congress, May 19, 1987]

NUCLEAR MATERIAL FROM DISMANTLED WARHEADS: WHAT TO DO WITH IT AND HOW TO VERIFY ITS DISPOSAL: A PRELIMINARY ANALYSIS

(By Warren H. Donnelly, Senior Specialist, Environment and Natural Resources Policy Division)

SCOPE AND PURPOSE

Senator Larry Pressler requested the Congressional Research Service to compile a report outlining the technical, political and economic advantages of recycling weapons grade nuclear materials into peaceful applications, keeping in mind the example of President Eisenhower's Atoms for Peace proposal of 1953. The following response is intended to bring out the main features of this idea, compare it with Atoms for Peace, list some of the major issues which it raises, and identify realistic advantages and disadvantages. Because the literature is sparse for this particular aspect of arms control and disarmament, the analysis draws heavily upon the experience of the author as the CRS senior specialist primarily concerned since the mid-1970's with ways and means of avoiding further spread of nuclear weapons and the ability to make them. The analysis has had the benefit of consultations with colleagues in the Congressional Research Service, the Office of Technology Assessment and the General Accounting Office, and also with scientists at the Sandia Laboratories, the Argonne National Laboratory and the Brookhaven National Laboratory.

The report addresses a small part of the overall question of how to accomplish deep cuts in strategic nuclear arsenals if these should be agreed upon. It considers what to do with nuclear materials recovered from dismantled warheads and how to verify this disposition. A fundamental assumption is that the salvaged materials should not be used to make other nuclear weapons.

The report is divided into two parts: background and analysis. The background briefly covers the Atoms-for-Peace proposal, the nuclear materials involved, estimates of amounts to be disposed of, the range of options for disposal, disposal by consumption, and a brief description of the commercial nuclear fuel cycle. The analysis identifies options for disposal including permanent and temporary national storage of the nuclear materials, international storage, the use of weapons grade uranium and weapons grade plutonium as fuel. Under these options certain policy issues are examined: verification of consumption, the relation of the disposal options to U.S. nonproliferation policy, and a comparison of the fuel use option with ideas of Atoms-for-Peace. The analysis concludes with a list of advantages and disadvantages of fuel use disposal. A further discussion of the potential utility of IAEA verification capabilities in fuel use disposal of nuclear material from weapons appears in appendix A.

BACKGROUND

Atoms-for-Peace and Nuclear Arms Control

While today it is commonplace to think of President Eisenhower's *Atoms-for-Peace* proposal of December 1953 as intended to promote international cooperation in civil use of nuclear energy, at the time it was seen also as a way to pull the world away from the threat of nuclear war through limiting nuclear arsenals by diverting fissionable material from the manufacture of nuclear weapons to purposes of peace. Since then many have assessed the purposes and accomplishments of his proposal. for example, a comprehensive collection of such judgments appears in papers written to mark the 30th anniversary of *Atoms-for-Peace* at a conference in Washington in December 1983.[1] A leading figure at this conference, Dr. James R. Schlesinger,[2] described the *Atoms-for-Peace* speech as "combining a great leap of faith on Eisenhower's part with a shrewd pragmatism regarding what was immediately achiev-

Footnotes at end of text.

able."[3] For Dr. Schlesinger, the most important promise of President Eisenhower's proposal was its vision. Here was an attempt to reach into and to deal with the future. The greatest achievement of *Atoms-for-Peace* for him was a start in cooperation in arms control and the ultimate winning over of the Soviets:[4]

". . . They were induced to cooperate with the United States and the rest of the world in this area in which we all had common interests. There we see the greatest achievement. It was there that Eisenhower's vision and patience shined through."

Schlesinger recognized some limitations, in retrospect, of Eisenhower's idea. Of these he said:

"The specific measure then proposed for arms control was, however, undoubtedly technically defective. As we would clearly recognize today, its intent was to reduce the stockpiles of nuclear weapons through the diversion of fissionable materials to the new IAEA. At that early date there was a pressing shortage of fissionable material for weapons, even for the United States itself. It was thought then that control over the supply of this indispensable component might provide the leverage through which nuclear armaments could be controlled. In retrospect, it was quite clearly a most inadequate means for controlling nuclear arms. It treated limitations on the supply of fissionable materials as permanent, where these limitations were inherently transitory."

* * * * *

"Nonetheless, what I want to stress about Eisenhower's achievement is that, even in retrospect, the vision of arms control overrides any technical defects in the proposal."

On the whole, President Eisenhower's proposal has had a continuing effect upon political relations between the nuclear weapons states and nonnuclear weapon states alike. The quest for control of this has also provided one of the few continuing common interests between the two superpowers. It has had an immense, if unforeseen, effect on the technology of peaceful uses. Finally, it led to the creation of abiding institutions, most notably, the hopeful edifice that is the International Atomic Energy Agency.[5]

Another commentator, representing a conservative school of thought, Henry Sokolski,[6] observed that many analyses of *Atoms-for-Peace* had failed to consider fully what Eisenhower and the program's original supporter had claimed as its purpose: that it was "a move toward U.S.-Soviet nuclear disarmament through the establishment of an IAEA that would begin to channel fissionable production away from military production and toward peaceful purposes."[7] Even among those few analyst who did mention this objective, it was generally dismissed or underemphasized.

Also at the conference was W. Sterling Cole, an early chairman of the Congressional Joint Committee on Atomic Energy and the first director general of the International Atomic Energy Agency. On the disposal question, he said the only good answer was the one of President Eisenhower, that the recovered material:

". . . should be put to work for benign purposes. We should now do in 1983 what Eisenhower called for in 1953. I believe that President Reagan should now invite the Soviet Union to join with our country in a pledge to convert into nuclear power plant fuels the materials that would be feed for peaceful uses when our two nations came into agreement on arms reduction."[8]

Reason for current interest

For many months, reports of negotiations at Geneva on nuclear arms reduction and the controversies surrounding proposals to reduce strategic nuclear arms have been highly visible in the news. The intense coverage of the 1985 summit meeting at Geneva between General Secretary Gorbachev and President Reagan heightened already substantial public interest in ways and means to reduce the nuclear armaments of the superpowers. In his report to Congress on November 21, 1985, President Reagan spoke of the U.S. proposal of a 50 percent reduction in the most threatening of nuclear weapons, especially those that could carry out a first strike.[9] He spoke also of joint progress of the United States and the Soviet Union in combating together the spread of nuclear weapons.[10] Earlier that day, in the joint U.S.-Soviet statement at Geneva, President Reagan and General Secretary Gorbachev reaffirmed the commitment of their governments to the Non-Proliferation Treaty and their interest in strengthening the non-proliferation regime and in further enhancing the effectiveness of the NPT. They spoke of plans to continue to promote the strengthening of the International Atomic Energy Agency and to support the activities of the agency in implementing safeguards as well as in promoting the peaceful uses of nuclear energy.[11]

Then, in October 1986 came the meeting of President Reagan and General Secretary Gorbachev in Reykjavik, Iceland. Whatever concerns there may be in he outcome of the summit, it produced an American proposal to abolish all offensive ballistic missiles within 10 years. Going further, reports indicate that Mr. Gorbachev said he was willing to eliminate all nuclear weapons of any type, including short-range weapons.[12] If steps are taken towards either proposal, sooner or later many strategic warheads and perhaps other nuclear warheads will have to be dismantled, potentially numbering in the thousands. Such a dismantling would inevitably raise the question of what to do with the weapons grade plutonium and uranium recovered. Depending upon the state of other arms control negotiations, the United States and the Soviet Union might simply use some or all of it to make tactical nuclear weapons, or perhaps recycle it into single warhead missiles if these should be allowed. Such use of recovered nucler materials, however, lies outside the ambit of this analysis. What is addressed here is the disposal of recovered nuclear weapons materials in ways that would prevent its return to the manufacture of new nuclear weapons of any kind.

The nuclear materials involved

Dismantling several thousand warheads would yield nuclear explosive materials totalling many metric tons. Even a small, trial reduction could free several metric tons. If simply stored without inspection to verify there is no diversion (safeguards) in the United States and in the Soviet Union, these materials would remain readily available for reuse in making new warheads.

Dismantling nuclear warheads will produce fissionable and thermonuclear materials. The fissionable materials would include uranium concentrated, or enriched to 90 percent or more in the isotope U-235, and weapons grade plutonium. The thermonuclear materials could include tritium, deuterium and lithium.

Highly enriched uranium does not exist in nature and has to be produced by machines which separate the U-235 atoms from U-238 atoms to increase the U-235 concentration from the 0.7 percent found in nature to 90 percent or more. This is called enrichment. Plutonium too does not exist in nature. Plutonium is made by exposing atoms of uranium-238 to neutrons, which turns the U-238 into plutonium. This neutron irradiation usually is done in a nuclear reactor.[13] The plutonium is recovered from the irradiated uranium or "spent fuel" by chopping it up, dissolving it in strong acids, and chemically separating out the plutonium and the residual uranium. This is called reprocessing.

Turning to the thermonuclear materials from thermonuclear, or "H" bombs, tritium is produced by bombarding lithium-6 with neutrons, usually in a nuclear reactor. Once produced, tritium begins to decay because it is mildly radioactive, decreasing by 5.5 percent yearly.[14] As for lithium, it exists in nature and is a relatively inexpensive material with many industrial uses. The lithium recovered from thermonuclear warheads would probably be in the form of lithium deuteride, a chemical combination of lithium and heavy hydrogen or deuterium. The purpose of the deuterium is to provide additional tritium once it becomes exposed to neutrons from the fissioning plutonium in the trigger of a thermonuclear warhead. Much of the force of an "H" bomb comes from fusion of tritium atoms. Uranium-238 may also be used in some thermonuclear warheads and would be another product from dismantling. While thermonuclear materials from dismantled thermonuclear warheads also would require some kind of verified disposal, this report deals only with weapons grade uranium and plutonium.

Amounts of materials to be disposed of

Amounts of weapons grade uranium or plutonium that might become available for disposal would vary widely depending upon the extent and timing of negotiated cuts, and could range from hundreds of metric tons for the more expansive estimates, to much less for conservative ones. A high estimate might assume, for example, a 50 percent cutback in all of the U.S. and Soviet warheads, including strategic weapons, short range weapons and theatre weapons. If a 1984 estimate of 26,000 warheads in the U.S. stockpile as of 1983 and a planned addition of some 11,000 new warheads by 1988, for a total of 37,700,[15] is reasonable, then a deep cut agreement of 50 percent would lead to dismantling of some 18,800 warheads. If half of these warheads each contained 10 kilograms of plutonium, the amount of this material available for recovery in the United States alone would be 94,000 kilograms, or 94 metric tons.[16] The other warheads in this example would yield about the same amount of weapons grade uranium. An equivalent cut by the Soviet Union presumably could produce comparable amounts, which suggests a total of more than 300 metric tons of fissionable materials ultimately could be available for disposition from a deep cut.

Another high estimate comes from John Taylor of the Electric Power Research Institute and his colleagues, published in early 1985.[17] They estimated some 160 metric tons of weapons grade uranium or plutonium might be available,[18] reasoning as follows:

". . . if the United States and the Soviet Union have, between them, about 50,000 nuclear weapons (a conservative estimate) and if, over some years, they turn in one-third of their arsenals, about 16,000 warheads become available. If these weapons have an average content of 10 kilograms of uranium or its plutonium equivalent, a total of about 160 metric tons equivalent of material could be converted to peaceful purposes."

Much less weapons grade material would need disposal if a cut is limited to strategic

missiles and is less deep. Assuming that 1986 estimates from the Stockholm International Peace Research Institute are reasonably indicative, the number of warheads in the U.S. and Soviet stockpiles for strategic nuclear forces totalled 8,830 for the United States and 9,100 to 17,000 for the Soviet Union, for a combined total of about 18,000 to 35,000 warheads.[19] If a cutback of 20 percent was agreed upon, then the number of warheads to be dismantled could range from 3,600 to 7,000. Also, for purposes of illustration, if each warhead contained 10 kilograms of weapons grade materials, then the amount of nuclear materials recovered could range from 36 to 70 metric tons. Assuming that half of the warheads contained plutonium and the other half uranium-235, the respective amounts of these materials available for disposal would range from 18 to 35 metric tons for each. These amounts would be reduced if the plutonium content of each warhead turns out to be closer to five than to 10 kilograms.

Verification of recovered amounts

Once these nuclear materials are removed from dismantled warheads, they probably would be processed to change their physical shapes and perhaps chemical or metallurgical composition so as not to reveal classified information about bomb design and manufacture. Conversion of metallic plutonium and uranium into oxides would be ideal. The dismantling organizations would present this material to inspectors to verify its nature and quantity.

Theoretical options for disposal of recovered nuclear materials

Deep cuts in present inventories of strategic nuclear weapons would release substantial quantities of weapons grade materials from dismantled warheads. As noted earlier, in principle some of this might be fed back into the nuclear weapons work to produce warheads for short range missiles or other arms not covered by a reduction in strategic weapons. Assuming, however, that the superpower agreement would bar returning some or all of these surplus materials to production of any additional warheads, then the question of what to do with the materials and how to verify their disposition would quickly arise. There are several options, some more feasible and practicable than others. Because lithium, deuterium and uranium-238 that might be recovered are readily available from many other sources, verification of their disposition would be desirable but not essential. Not so for weapons grade uranium and plutonium, which are difficult and expensive to produce and are available from few sources. For this reason, the analysis will focus on disposition of these two materials. Keeping in mind that interim storage of these weapons usable materials probably would be needed for a while pending final disposition, the range of potential disposal options includes the following:

1. *Permanent storage or stockpiling under national, bilateral or multilateral control.*—Once the plutonium or enriched uranium, is recovered from a dismantled warhead, these materials would be stored, either temporarily or permanently. One long term option to keep these materials out of new warheads would be to put them into permanent storage centers in each country. These storage centers could be under national, or joint bilateral control of the United States and the Soviet Union, or perhaps under multilateral control by an international organization. In principle, the nuclear weapons materials could be degraded, as discussed below, so that they could not be directly used to make new warheads without some kind of processing that would cause delays.[20]

2. *Denaturing.*—In principle the plutonium and enriched uranium could be degraded or denatured by mixing with other materials so that they could not be readily reused to make nuclear warheads. The materials could then be stored, as suggested above, or used for fuel. This idea received considerable attention in the early days of nuclear energy, particularly for plutonium. It was central to David Lilenthal's report to Secretary of State Acheson on international control of atomic energy, and appeared again in the first report of the United Nations Atomic Energy Commission in 1946. Enriched uranium can be easily degraded by mixing it with normal uranium to bring down the U-235 concentration below the level of weapons grade materials, i.e. to 20 percent or less. The degraded uranium could be restored to weapons grade only by putting it through enrichment again. Plutonium presents a different story. There are several isotopes of plutonium, with Pu-239 being preferred for weapons use. One could denature weapons grade plutonium by mixing it with plutonium recovered from spent fuel of nuclear power plants, which has enough of the undesirable Pu-240 to make it unsuitable for direct manufacture of warheads. Of course, engineers could design a nuclear explosive to use low quality plutonium, but this would require new development and design. To date none of the nuclear weapons states have used low quality plutonium to make weapons, although there are vague reports that the United States once tested such an explosive.[21] Questions about the usefulness of low grade plutonium usually are advanced in connection with risks that countries which do not have nuclear weapons may at some time wish to use plutonium to make them, or that nuclear terrorists might be able to steal some low grade plutonium or to try to make a bomb. Considering the sophistication of the warheads in the U.S. and Soviet arsenals, it appears doubtful that either would try to cheat upon a dismantling agreement by using denatured or low grade plutonium to make new warheads.[22] This situation could change quickly, however, if laser isotope separation proves to be practicable on an industrial scale.

3. *Disposal into space.*—In theory, powerful rockets could carry nuclear weapons materials into deep space whence they could not be recovered. NASA's space shuttles already have demonstrated a capacity to lift substantial loads into orbit and this technology could be applied to space disposal. However, costs would be very high and there could be risk of major radioactive contamination if a launch had to be aborted soon after liftoff.

4. *Disposal into the sea.*—Nuclear weapons materials could be dissolved and discharged into the seas. The enormous volume of the seas could dilute large quantities of plutonium and uranium to low levels of concentration, probably well below those that would cause concern by scientists about adverse biological effects. On the other hand, strong opposition could be expected from environmental and other public interests groups that vehemently oppose disposal of radioactive wastes into the seas.

5. *Deposit in the deep sea bed.*—Nuclear weapons materials, suitably packaged, could be inserted into the deep sea bed where recovery would be implausible with today's underwater technologies. However, because only comparatively small amounts of plutonium or enriched uranium can be put in a single package—to avoid an unintended chain reaction, many insertions would be needed which would greatly increase costs and complicates possibilities for continuing surveillance to assure that none of the materials are surreptitiously retrieved. Also strong environmental opposition could be expected.

6. *Deposit into the earth.*—Nuclear weapons materials could be placed in deep holes drilled into the earth. Here again, many holes would be needed to avoid unintended nuclear reactions. Also, while recovery of materials from such holes would be difficult, it presumably would be less so than for disposal into the deep sea bed. Again, opposition could be expected with concern about ground water aquifers, public health and environmental effects.

7. *Disposal by consumption.*—Another way to assure weapons grade plutonium or uranium are not reused to make nuclear weapons is to fission the materials in nuclear reactors.[23] Such reactors might be specially built for this purpose, or reactors now used to generate nuclear power.

Disposal by consumption

Of these seven options,the first is the simplest but leaves weapons grade materials at risk of future seizure. The second has little current support. The next four while possible, all appear impractical and all would require throwing away materials produced at great cost and with a high potential energy content without getting any economic benefit in return; all four would be strongly opposed as dangerous to public health and to environmental quality. The last option, disposal by consumption in nuclear reactors, is technically possible and could recover some value from the nuclear weapons materials. However, this use of weapons grade plutonium probably would be opposed by those who argue that anything which encourages or legitimizes commercial use of plutonium as a nuclear fuel unacceptably increases the dangers of further spread of nuclear weapons in non-weapons states and risks that terrorists could seize plutonium for their own malevolent purposes.

The nuclear fuel cycle

Before examining in more detail how nuclear materials from dismantled warheads might be consumed or degraded by use as fuels for nuclear reactors, either in special "burner" reactors or in commercial power reactors, and to provide a common background, there follows a brief description of what is called the nuclear fuel cycle. This widely used term refers to the collection of resources and industrial facilities and operations needed to make, use and dispose of nuclear fuels.

Nuclear reactors release energy in the form of heat produced when the nuclei of the atoms of plutonium or uranium are split i.e. fissioned. The nuclear reactions that produce the heat in this way take place in a reactor. The heat energy can be dissipated into the environment or be used to generate electricity. For the latter, the heat is carried to a boiler to produce steam to drive conventional turbine generators.

Uranium is the nuclear material used as the fuel in current nuclear power stations. However, other possible fuel cycles, notably using plutonium, have been considered.

Uranium ore occurs naturally in the earth's crust and is mined by conventional mining techniques. It is then processed into a form suitable for fuel in a nuclear reactor. Natural uranium contains two main isotopes, uranium-238 and uranium-235. Only the U-235 atoms are useful for fuel. These are

fissionable, i.e. capable of being split, but U-235 accounts for only about 0.7% of natural uranium. Although some reactors are designed to use natural uranium as their fuel, most power reactors in the United States, Europe, the Soviet Union and Japan now use slightly enriched uranium, in which the proportion of U-235 atoms has been artificially increased or 'enriched' to 3-6 percent. Argentina, Canada, India and Pakistan use nuclear power reactors fueled with normal uranium. Consequently, most of the uranium that is mined for nuclear fuel is enriched before it is fabricated into fuel elements for loading into a reactor.

Inside a reactor the U-235 atoms, when split, form lighter elements, known as fission products, some of which are highly radioactive. Some of the U-238 atoms are also transformed in the reactor into heavier elements, also radioactive. The most important of these is plutonium-239, which, like U-235 is fissile and therefore a potential fuel. Indeed some of the plutonium formed within a reactor is then subsequently fissioned and releases energy. About one third of the energy released while the uranium fuel is being irradiated comes from the fission of plutonium.

The heat produced by fission is removed by a cooling agent that passes over the fuel and transfers the heat to steam generators which supply steam to the turbine generator. In some types of reactors, the coolant can be ordinary (light) water or heavy water; in others, gases such as carbon dioxide or helium are used. The largest number of power reactors currently in operation use light water, and are generically referred to as Light Water Reactors (LWRs). There are two main types of LWR: the Pressurized Water Reactor (PWR) and the Boiling Water Reactor (BWR). There are also significant numbers of Heavy Water Reactors (HWRs), particularly in Canada, which has developed the CANDU HWR, and of Gas-Cooled Reactors, particularly in France and the UK.

When the used, or "spent" fuel is discharged from a reactor, it contains unconsumed uranium, radioactive fission products, plutonium and some other heavy elements. Because of continuing emission of heat from its radioactive contents, it is placed in water in storage ponds to be kept cool. When its radioactivity has lessened enough (decayed), the spent fuel can be sent to a reprocessing plant where it is dissolved and chemically processed to extract the unused uranium and plutonium. These materials can be mixed together in their oxide forms (mixed-oxide or MOX) and then fabricated into new fuel elements and recycled to power reactors. When new fuel elements are fabricated in this way they contain a mixture of uranium and plutonium, the plutonium providing the main fissile material in the fuel. At present, no country uses mixed-oxide commercially, although this is ultimately expected in Europe and Japan.

Three different types of fuel cycle are commonly identified depending on whether or not the spent fuel is reprocessed and, if it is, to what type of reactor the uranium and plutonium are recyced:

In the once-through fuel cycle, the spent fuel is not reprocessed but kept in storage ponds until it is sent for permanent disposal, for example by conditioning it and burying it underground in a deep geological repository.

In thermal[24] reactor recycle, the spent fuel is reprocessed and the uranium and plutonium are separated from the fission products which are conditioned, for example by vitrification, and disposed of to a deep geological repository. Both the uranium and the plutonium can then be recycled in new fuel elements for power reactors. (Alternatively, it is possible to recycle only the uranium and to store the plutonium, or vice versa.)

In fast breeder reactor cycle, the spent fuel is similarly reprocessed and the uranium and plutonium fabricated into new fuel elements to drive breeder reactors. Fast breeder reactors (FBRs), produce excess neutrons used to convert U-238 in a "blanket" of depleted uranium into plutonium.[25] Breeders are an efficient way of transforming uranium into plutonium, or of using low quality plutonium (in their cores) to produce high quality plutonium in their blankets.

By suitable operation, such reactors can produce somewhat more plutonium than they consume (hence the name 'breeder').

Both thermal and fast breeder reactor recycle need facilities for the storage of separated plutonium until required for recycle, and arrangements for transport of plutonium between sites, in addition to reprocessing and fuel fabrication plants and the facilities for the storage of disposal of wastes. Transport of separated plutonium is not necessary if the reprocessing and fuel fabrication plants are located on the same site. A diagrammatic representation of the main fuel cycles is given in Fig. 1.

[Figure not reproducible in the RECORD.]

ANALYSIS

Of the several alternatives open for non-weapons use of weapons grade nuclear materials from dismantled strategic or other warheads, storage and consumption appear to be the most practicable. If deep cuts are indeed made, temporary storage under verified conditions would be necessary until final disposal could be undertaken. The timing of final disposal would depend upon the availability of the plant and equipment either for permanent storage or to fabricate the recovered materials into nuclear fuels and put them into use. With this in mind, the idea of storage now will be reviewed, followed by consideration of the idea of consuming, or "burning," the nuclear weapons materials in nuclear reactors and verification of that consumption. The relation of the consumption alternative to U.S. non-proliferation policy will also be discussed, followed by a comparison of this idea with the concepts in Atoms for Peace.

Temporary storage

Once dismantling centers became operational, temporary storage for recovered weapons materials would be needed. Temporary storage could be supplied by the superpowers themselves or by an international organization operating within their territories. Temporary storage in an international center in another country does not appear practicable. The best place for temporary storage would be at the dismantling facility. Here the metallic uranium and plutonium from warheads would be received and stored pending release to final disposal. The storage facilities could also include equipment to convert the metallic materials into oxides which would be better suited for fuel use and would be unfit for direct reuse to make nuclear warheads. If disposal by consumption is chosen, the storage facilities also could include equipment to fabricate the nuclear materials into fuel elements so that only fabricated fuel would be shipped out. This would afford the greatest protection against seizure of nuclear materials in transit. On the other hand, the nuclear fuel industries of both superpowers probably would strongly resist this idea because of questions about their ability to control the quality of the product, particularly if poor quality in fabrication could increase risks of nuclear accidents.

Temporary storage facilities would be to provide a buffer between the flow of nuclear materials from dismantled warheads, which would be driven by the terms of the arms reduction agreement and the demand for these materials for fuel. Since it seems likely that dismantling of warheads could begin well in advance of construction of new or enlarged factories to fabricate the recovered uranium-235 or plutonium fuel, temporary storage would be necessary when the dismantling begins.

Verification at temporary storage facilities would provide specific information about how much nuclear were received from dismantling; and how much left the storage facilities, when, in what form, and for what destination. This information would be verified by sampling, analyses and other measurements.

The idea of international plutonium storage.—The simplest option would be temporarily store the recovered nuclear weapons materials in national storage facilities under bilateral or international control and inspection. An alternative that could give more assurance would be storage in an international center outside of either superpower. Since the late 1970s much attention has been paid to the idea of international plutonium storage (IPS) which could be a model. Although this idea is currently out of official favor, it merits some attention here to show the kinds of questions and issues likely to arise.

The International Atomic Energy Agency has worked on international plutonium storage for years, and it was considered at the U.S. initiated International Nuclear Fuel Cycle Evaluation during 1978 and 1979. No comparable proposals have been made for storage of uranium-225, although the concept should readily apply to this material also.

In 1976, the IAEA Director General initiated a study on the possibility of international plutonium storage as authorized by the Agency's Charter.[26] This produced a report that was circulated to member states in July 1978. The Director General then called together a group of experts to prepare a detailed scheme for international plutonium storage for submission to the IAEA's Board of Governors. Both the U.S. and the U.S.S.R. were active participants. Meanwhile, in October 1977, at the initiative of President Carter, an international Nuclear Fuel Cycle Evaluation was organized to look into proliferation problems. One of its working groups considered reprocessing, plutonium handling and recycle, including international plutonium storage. INFCE's summary report in January 1980 reported the conclusion of this working group that:[27] ". . . a scheme for international storage of plutonium could have important non-proliferation and assurance of supply advantages."

A few months later, in August 1980, international plutonium storage got support at the second conference on the Non-Proliferation Treaty, held in Geneva. Although there was no final declaration from the Conference because of differences over nuclear arms control, an informal draft declaration was circulated on the last day by a broadly representative group of participants. This draft spoke of international plutonium storage as follows:

"The Conference . . . welcomes the work of the IAEA expert group on international plutonium storage, and supports

internationally agreed effective scheme for international plutonium storage on the basis of Article XII A. 5 of the IAEA Statute. The Conference considers that such a scheme for excess plutonium, if well designed, should not jeopardize the promotion of the peaceful uses of nuclear energy, and would make a substantial contribution to non-proliferation as well as to the improvement of the assurance of nuclear supply and the development of common approaches and generally agreed arrangements for international nuclear trade."

Returning now to the IAEA's group of experts, as they continued their meetings the participants broke up into three blocs. By May 1982, India, Argentina and Yugoslavia backed a "minimalist approach"; West Germany, France and the United Kingdom and the United States continued to support a middle ground; while Australia, the Netherlands and Sweden favored maximum controls and proposed to restore many of the original features that had been dropped in earlier compromises. So the final report of the expert group in November 1982 included all three alternatives. Nevertheless, the experts were able to agree that to be generally acceptable, an international plutonium storage scheme should:[28]

Facilitate the development of plutonium-using fuel cycles;

Facilitate the achievement of international non-proliferation objectives;

Not discriminate between States; and

Not interfere with national energy programs.

Elaborating, the experts said:[29]

"An international plutonium storage system should be seen as part of the IAEA safeguards system and not as a new or separate system.

"Proposals for an IPS should use established safeguards to the fullest extent possible. This is a "realistic objective which could be accomplished with no great difficulty.

"Excess separate plutonium deposited with the Agency should be stored in facilities designed as international plutonium stores within the responsible states.

"IPS stores would be located where plutonium normally would be stored in any event, such as at reprocessing plants for mixed oxide fuel fabrication plants.

"Transport of plutonium should be kept to a minimum in view of the physical protection requirements and costs associated with plutonium transport."

Little more has happened since publication of the experts' report, probably because they could not agree upon a single course of action and because of a marked slowdown in development of breeder reactor abroad and a virtual abandonment of breeder development by the Department of Energy in the United States.

Permanent storage of recovered materials.—After temporary storage one final option would be to deposit the materials in some kinds of permanent storage centers, perhaps in permanent national storage centers under bilateral or international supervision or in an international storage center in some other nation. This idea, however, has gotten little support for several reasons:

(1) From the standpoint of non-proliferation policy, it is safer to store plutonium still contained in spent fuel than to store separated plutonium.

(2) The technical difficulties for permanent storage of weapons grade plutonium and uranium could be substantial because the materials have to be stored in small quantities far enough apart to avoid an inadvertent chain reaction, particularly if the storage place might be flooded with water.

(3) If the weapons grade materials were put into permanent storage within the U.S. and the U.S.S.R., neither government could provide absolute assurance to the other, or to third parties, that under some future circumstances one or both might decide to retrieve the materials for weapons use. If the materials were permanently stored in some other state, there would always be some possibility that they might be seized by the host state, or by terrorists or other "subnational" groups, or might get out from under control should there be a revolution or major domestic disorders in the host state.

Use of weapons grade uranium, in principle

Since the early days of nuclear energy, highly enriched uranium has been regarded as a nuclear fuel. Indeed, one early large scale application of nuclear power was in submarines whose nuclear engines used this material. Highly enriched uranium offers substantial technical advantages for reactors for research and for testing; for reactors to produce energy to generate electricity or to supply high temperature process heat; and for compact nuclear power plants. It also was seen as an initial fuel to start up breeder reactors until they could produce enough plutonium to become independent of uranium-235.

On the other hand, it was equally evident from the start of the U.S. wartime Manhattan project that highly enriched uranium was ideally suited for nuclear weapons, and was predictable enough in its nuclear behavior that the first uranium bomb was used in 1945 by the United States without the prior testing which was necessary for the first plutonium bomb.

A complication is the widespread concern that if weapons grade uranium is used to fuel civil power reactors, it might be stolen from fuel fabrication plants, from storage, or from transport by terrorists or criminals who might try to make an atomic bomb. Of the nuclear weapons materials, highly enriched uranium would be the simplest and easiest to use. So if terrorists got hold of some, and this was known to the public, there would be fears that they indeed could make a crude but very dangerous bomb.

Use of weapons-grade uranium, in practice

Weapons grade uranium can be used to produce energy in two ways: it can be used directly to fuel reactors designed for this material; and it can be diluted with normal or depleted uranium[30] to produce fuel of enrichment suitable for conventional nuclear power plants, i.e. about 3–6 percent uranium-235.

Direct use of weapons grade uranium as a nuclear fuel.—At present the largest users of highly enriched uranium for fuel are the nuclear navies of the superpowers and of the United Kingdom and France. Probably it is used to fuel the Soviet fleet of three nuclear powered icebreakers, with a fourth under construction. As for power, only two countries now have nuclear power plants fueled with highly enriched uranium; West Germany and the United States. West Germany has a small demonstration plant of 13 electrical megawatts (MWe) capacity at Julich and small power plant of 296 MWe capacity at Schmeshausen. The United States has one privately owned nuclear power reactor of this kind, the 330 MWe Fort St. Vrain unit. While several public utilities in the western United States had planned to build eight more full sized power reactors fueled with HEU, these projects all have been cancelled or indefinitely deferred.

The Soviet Union has no high temperature gas cooled reactors planned or in operation. Japan has shown some interest in them to supply high temperature process heat, but this interest is far from commercialization. France too has shown little interest while the United Kingdom had one small research unit now out of commission. As for research reactor use, the United States for several years has pushed strongly to change the fuel in these reactors from 90% material to 20% or less as a way to assure that if stolen, this material could not be directly used to make a nuclear explosive.

For the present, then, the use of highly enriched uranium as a reactor fuel is limited to a fairly stable world set of research and testing reactors, naval propulsion for the main nuclear weapons states, and a handful of power reactors. Since existing supplies appear to be adequate, if it were decided to "burn" weapons grade uranium as nuclear fuel, present production would have to be reduced or perhaps shut down until the material from warheads could be used up. This would conflict with U.S. policy to wean operators of large and small research reactors away from highly enriched uranium by developing and demonstrating replacement fuel using no more than 20 percent uranium-235. The driving force for this U.S. policy is concern that terrorists or criminals might be able to steal dangerous amounts of highly enriched uranium from these reactors or from the factories that make fuel for them.

Indirect use to fuel conventional power reactors.—Quite a different alternative would be to dilute weapons grade uranium with normal or depleted uranium to reduce the overall enrichment to 20 percent or less. Low enriched uranium, from 3 to 5 percent, is the regular fuel for most of the world's light water nuclear power reactors, and cannot be directly used to make warheads.

Some economic considerations.—A fundamental question in thinking about using surplus weapons grade uranium as a nuclear fuel, or diluting it to supply low enriched fuel, is reluctance to waste the enrichment already invested in this weapons grade material. Fortunately, diluting weapons grade uranium down to fuel grade would waste less than half of the initial enrichment effort. If 90 percent enrichment uranium is blended back to 3 percent, typical of fuel for pressurized water reactors, only 39 percent of the enrichment effort is lost, which, depending upon the going price for enrichment, could range from about $7,500 to $13,000 per kilogram degraded.[31] The amount of enrichment effort needed to produce a kilogram of various enrichments is shown in table 1.

Some estimates of potential uranium consumption.—As noted earlier, weapons grade uranium could be consumed in two ways: directly as fuel for fast reactors, and indirectly by diluting it to low enrichment for conventional nuclear power reactors.

Turning first to direct use, typically, a high temperature gas cooled reactor could consume about 780 kilograms of highly enriched uranium annually.[32] This is enough for about 52 warheads, assuming 15 kilograms per warhead. However, this type reactor is not yet in commercial use. Over the years, the largest demand for highly enriched uranium for civil power was expected to be to fuel breeder reactors until they could produce enough plutonium to become self sufficient. At present little prospect is seen for commercial breeding for at least several decades.

As for indirect use, a large (1,000 MWe) nuclear power plant using 3 percent enriched uranium at equilibrium conditions would require annually about 21 metric tons of this material.[33] Since one kilogram of highly enriched uranium (90% U-235) can be diluted to supply 30 kilograms of 3 percent material, and assuming 15 kilograms as the nominal amount for a nuclear warhead,[34] a large power reactor could consume annually the nuclear charge from about 46 such warheads. So, these figures suggest that ten large power reactors could annually consume the uranium-235 from almost 500 warheads.

TABLE 1.—SEPARATIVE WORK REQUIRED TO PRODUCE 1 KILOGRAM OF 90 PERCENT U-235

Feed enrichment percent	Separative work SWU/kg product
0.711 (natural)	227
2	118
3	89
3.3	83
4	73
5	62
20	19.8

Notes.—SWU—Separative Work Units Assuming 0.2 percent tails.
Source: deMontmollin.

Conclusion. There are now not enough working power reactors using highly enriched uranium to quickly consume any substantial quantities from dismantled warheads. The material could be used to fuel nuclear navies, although verification could be difficult. Using weapons grade uranium could mean a temporary shutting down of enrichment plants. Also, national sensitivities about the performance of their nuclear fleets probably would make it problematical whether verification could be worked out because the materials accounting could give information about fuel performance. Looking far ahead, if high temperature gas cooled reactors demonstrate their promise, particularly for process heat, then there could be a much greater demand for uranium enriched to 20 percent or more. For the present, however, indefinite storage of weapons grade uranium or dilution to conventional reactor fuel grade appear to be the most workable alternatives for disposal.

Use of weapons grade plutonium, in principle

As with enriched uranium, from the beginning of U.S. work on nuclear power it was expected that plutonium ultimately would be produced and used as a nuclear fuel. This was the reason for developing the breeder reactor which by efficiently transmuting uranium-238 into plutonium can produce more nuclear fuel than it consumes, with the excess plutonium available to fuel conventional power reactors.[35] The driving force behind work on plutonium was an expected world scarcity of uranium, which indeed was in short supply in the early 1950s before the discoveries of large deposits of uranium in the United States, Canada, Africa and Australia. Today's oversupply of uranium was not foreseen.

Looking ahead, there is some difference of opinion about future demand and supply for uranium. While many expect today's surplus of uranium to continue indefinitely, this view was challenged at the World Energy Conference in October 1986 where an analytical team from an energy commission reported that proven world uranium reserves would be exhausted by about 2015 even if breeders are introduced at an accelerated pace. Moreover, a rapid introduction of breeders would delay by only some 17 years the total exhaustion of world uranium resources, including speculative resources.[36] If thinking about nuclear fuel adopts this view, uranium-235 and plutonium from dismantled warheads would be seen as helping to deal with a shortage rather than being a potentially troublesome surplus. If indeed uranium is seen likely to become scarce, this would revive today's dwindling interest in commercial production and use of plutonium. Unfortunately, it may be several decades before estimates of the long term balance between demand and supply for uranium settle down.

Again, as with highly enriched uranium, there is concern that weapons grade plutonium, if used to fuel civil nuclear power plants, might be seized at fabrication plants or from storage, or from transportation by terrorists or criminals. Moreover, if breeders become a commercial reality and were fueled with weapons grade plutonium, they could be operated to produce equally good materials. On the other hand, plutonium from conventional nuclear power plants fueled with weapons grade material would be of low quality unless the plants were operated in an abnormal manner that would be highly visible to any inspector.

Use of plutonium as a nuclear fuel, in practice

As of 1986, some potential commercial fuel use of plutonium was looming on the horizon. Large reprocessing plants in the United Kingdom and in France were producing separated plutonium, and more reprocessing capacity is planned in the United Kingdom, in West Germany and in Japan—although vehemently opposed by some groups in these countries.[37] The most likely use of this plutonium will be in conventional nuclear power plants.

Use in breeders.—Although nuclear breeding was pursued with enthusiasm by the United States until the Carter administration and remains a goal for France, West Germany, the United Kingdom, Japan, India and the Soviet Union, this technology has yet to achieve commercial application in these countries. The only large prototype breeding nuclear power plant outside of the Soviet Union is the French Super Phoenix. While the U.S. Department of Energy is continuing some breeder development and continues to operate DOE's fast flux test reactor, there is no demand here for plutonium for breeders.

Use in conventional powerplants.—Plutonium now accumulating at Europe's reprocessing plants seems likely to be used in conventional power reactors. One factor is costs. The storage charges to hold separated plutonium are high, and will probably increase as low quality plutonium becomes more radioactive with age.[38]

Plutonium has been used experimentally in a few power reactors in the United States, and its use is currently being demonstrated in Europe and Japan. Also there has been some speculation in Argentina and in Canada that adding some plutonium to the unenriched uranium used in their heavy-water type reactors can substantially improve fuel performance.

An industrial base to support recycle already exists in Europe. Belgium, West Germany, France, the United Kingdom, and also Japan, have some industrial ability to fabricate limited amounts of mixed-oxide fuel elements, and have the technology well in hand to build large factories. Nonetheless, commercial use of plutonium in conventional nuclear power plants is still years away, and can be realized only if many economic, security and regulatory problems can be solved.

Several technical points need further comment. In general, plutonium can be substituted for uranium in conventional light water reactors subject to certain constraints. However, in a reactor designed to optimize uranium use, plutonium can replace only up to about a third of the uranium without changes that go beyond redesign of the fuel assemblies. Nonetheless, a "self-generating recycle," appears to be possible wherein at equilibrium a power reactor would produce as much plutonium as it consumes. Under this condition, the uranium requirements are reduced by about a third.[39]

There is an important difference between boiling water reactors (BWRs) and pressurized water reactors (PWRs) because of their different control characteristics. In the pressurized type, the mixed-oxide fuel can be put in about one third of the fuel assemblies. The remaining two thirds can contain only uranium, at a slightly higher enrichment than for normal all-uranium loading. This has a significant impact on fuel cost, since the higher cost of plutonium-fabrication would apply only to about a third of the fuel. In a boiling water reactor, all of the fuel would contain some plutonium, which would increase the total fuel fabrication cost over that for fuel for pressurized water reactors. However, most commercial power plants in the United States are of the pressurized type, and about half of those in the Soviet Union.

Looking ahead.—As for the future, there could be a new demand for plutonium if fast neutron type reactors are shown practicable to generate electricity, or to supply high temperature process heat for metallurgical and other industries. Here again, this use, at best, is years away if it ever materializes.

Some economic considerations.—At present it would be difficult for the U.S. nuclear industry to use plutonium from dismantled U.S. warheads as nuclear fuel. The industry lacks factories able to fabricate plutonium into fuel, and plutonium fuel probably would cost more than that made with conventional low enriched uranium. Since it is unlikely that State public utility commissions would feel bound by Federal policy to permit nuclear power plant operators to increase their rates for electricity to pay the incremental costs of plutonium fuel, some kind of Federal subsidy probably would be needed. In addition, DOE itself might resist the idea because of anticipated loss of sales for its enrichment services because of low enriched uranium displaced by plutonium.

Turning now to the state of the U.S. nuclear industrial base, at one time the United States had several commercial companies able to fabricate mixed oxides of plutonium and uranium into small pellets of which could then be inserted into long tubes that became nuclear fuel elements.[40] Some of this fuel was fabricated for DOE's breeder project and some for a project begun under the Atomic Energy Commission to demonstrate use of plutonium as a supplementary fuel in conventional nuclear power plants. However with the anti-plutonium attitude of the late Ford and the Carter administrations, and with the cancellation of DOE's Clinch River Breeder Reactor Project after Congress refused to continue funds for it in 1983, these facilities have been shut down. Nonetheless, many engineers and technicians with plutonium fabrication experience are still working in the industry. At the moment the only working U.S. facilities for plutonium fabrication experience are those of the Department of Energy. Abroad, the nuclear industries of West Germany and Japan are fabricating plutonium fuel in demonstration quantities and might be willing to expand their capacities.

Turning now to comparative costs of plutonium and conventional uranium fuels, the principal costs for fabricating fuel from surplus weapons plutonium would be the price charged by the government for the plutonium, the cost of converting plutonium metal into the mixture of oxides of uranium and plutonium (MOX) needed for the fuel, the fabrication of the MOX into fuel pellets, and the assembly of these pellets into completed fuel elements. There would also be higher costs for upgraded security to protect the plutonium from theft or seizure.

What price to charge for the plutonium would be a political question. On one hand it could be argued the price should be high enough to recover for the government the cost of producing the plutonium and perhaps for converting it into mixed oxide if the plutonium is released from dismantling in this form. On the other hand, if the disposal idea is given high priority, then a government subsidy via a low price to balance out any cost disadvantage for plutonium would be justifiable.

The production of mixed oxides and their fabrication into fuel pellets is more expensive than the corresponding fabrication of low enriched uranium oxide because of the toxicity and radiation from plutonium.[41] This requires all handling and fabrication of plutonium bearing materials to be done within airtight chambers by remote handling devices. Such process lines are expensive to build and to operate. Also plutonium must be handled in small amounts because of the risks that amounts might accidently accumulate large enough to become a critical assembly which could cause a burst of lethal radiation and perhaps an explosive release of energy.

Any private decision to build a plutonium fuel fabrication plant would also depend upon the kind of assurances the government could give for the duration of plutonium supply. If only a few years assurance could be given, industry would be less confident it could recover its investment than if a reliable supply could be assured for many years. Likewise, a private decision to proceed with plutonium fuel fabrication would also depend upon prospects for favorable action by the NRC on license applications to build and operate such a plant, and also on applications from utilities to use plutonium in their reactors. One prerequisite for such licensing is the completion of the Generic Environmental Impact Statement on Mixed Oxides (The GESMO Report). This report was begun by the NRC and taken to the point of publication in 1976, but further consideration stopped soon after the Carter Administration took office in 1977.

While the Reagan Administration early indicated it did not oppose domestic use of plutonium as a fuel, the NRC has not undertaken to update the report, and has said that this should be done by the Department of Energy which, to date, has not done so. If past experience is a guide, several years would be needed to update and act upon this environmental impact statement, during which time the NRC could not license construction of a new fuel fabrication plant or use of plutonium fuel by a power reactor. Additional time could be required if various public interest groups were to request hearings on the environemntal impact statement or to litigate.

There is an alternative. As noted earlier commercial plutonium fuel fabrication, albeit on a small scale, is available in West Germany, in France and in Japan. So the U.S. utilities could contract with these sources to expand their production capacity and to fabricate U.S. supplied plutonium into fuel pellets, or into complete fuel elements for return to the United States. Even so, NRC action of the environmental impact statement probably would be needed before it could issue licenses to export the plutonium for fabrication abroad and to bring back for use in the United States, unless there was legislation to remove these transactions from NRC jurisdiction.

On the whole, at this time it appears that the costs of plutonium fuel fabrication, questions about the duration of supply, and the difficulties of getting the necessary NRC licenses would not encourage the rule fabrications and the nuclear power utilities to voluntarily use plutonium fuel. However, it is plausible that some combination of government actions could make plutonium use attractive to them. For example, the Federal Government could arrange for the Tennessee Valley authority to use plutonium for fuel in its nuclear power plants since the TVA is a federal entity. This, however, assumes that TVA can overcome its present troubles with the NRC that in effect have shut down all of its nuclear power units, and that TVA could be convinced to change over to plutonium.

As for the Soviet Union, at present it too is not using plutonium as a supplementary nuclear fuel in conventional nuclear power plants and presumably lacks the factories to produce this fuel on a industrial scale. While some might expect that the centralized decision making of the Soviet government would easily enable it to arrange for such factories and fuel use, internal resistance from the Soviet nuclear industry and nuclear power operators would be likely if they were expected to absorb the costs with no adjustments in funds received from Moscow. And with the aftermath of the Chernobyl accident of April 1986 still much in mind, internal opposition could be expected if use of plutonium was seen as raising questions of nuclear safety.

Some estimates of potential plutonium consumption.—Several recent analyses have estimated the amount of plutonium that could be consumed in the generation of nuclear power.[42]

One analysis early in 1985 estimated that about 160 metric tons of plutonium and U-235 might be available from weapons for conversion to peaceful purposes. The plutonium would be enough to fuel 10 large nuclear power plants for 30 years, at an annual consumption rate of about 530 kg of plutonium per reactor.[43] Elaborating, it said:[44]

"Assuming that it is blended to the equivalent of 3 percent enrichment, this would amount to about 5,000 metric tons of reactor fuel, with a value of about $5 billion on today's market. When recycled, the resultant material could fuel 10 large nuclear power plants for 30 years, providing about two trillion kilowatt hours of electricity. This is roughly the total U.S. electricity generation during 1982, or 10 times the total African annual generation." A few months later, an analysis from Princeton University[45] concluded that ten large power reactors within a decade could dispose of all the plutonium currently in U.S., or Soviet weapons.[46] Of this the authors wrote:

". . . One method would be to use the plutonium as fuel in a relatively few heavily safeguarded reactors operated in a "once through" mode (that is, without reprocessing the fuel). Ten large reactors could in this method dispose of all plutonium currently in U.S. and Soviet weapons in a decade."

A recent estimate from DOE's Sandia Laboratories would expect the Soviet type pressurized water reactor, the VVER-100, to consume the equivalent of 40 plutonium warheads yearly, assuming 8 kilograms per warhead. In comparison, the equivalent of 35 warheads per year could be consumed by a typical U.S. type 1000 MWe PWR.[47]

Earlier, more conservative estimates appeared in the final report of the International Nuclear Fuel Cycle Evaluation[48] in 1980 and in the NASAP report of the Department of Energy,[49] also in 1980. These indicated that depending upon how a power reactor is operated, and how much plutonium can be put into the fuel, a large 1000 MWe unit would require about 400 kilograms of plutonium a year, which would mean that one large nuclear power plant could annually consume the plutonium from perhaps 40 to 80 warheads a year. If ten large power reactors were dedicated to this purpose, they could account for 400 to 800 warheads annually. This could be higher if the more optimistic predictions of other analysis prove to be correct.

Conclusion.—As with weapons grade uranium, here too there is now little commercial demand for plutonium to fuel conventional nuclear power plants. While the technology of plutonium recycle is being demonstrated in Europe and in Japan, and work has been done on it in the United States, the disposal of weapons grade plutonium by this route would require construction of industrial scale fuel fabrication plants here or abroad and in the United States would also depend upon the action of the Nuclear Regulatory Commission upon requests from reactor operators for permission to use such fuel. Presumably a similar situation for industrial capabilities exists in the Soviet Union. So at this time if there was an agreement to dismantle many warheads, the recovered plutonium probably would have to be stored for years. Even then, it might have to compete in a future international nuclear fuel market characterized by a surplus of plutonium from commercial reprocessing.

Where the materials could be consumed

The most likely countries in which to consume weapons grade uranium and plutonium from dismantled nuclear warheads would be in the United States and the Soviet Union. France, the United Kingdom and China might become involved if arms reductions included their nuclear arsenals. In principle the superpowers might supply some of these materials to other states to fuel research or power reactors, but it seems unlikely that either would wish to incur risks that their weapons grade materials might wind up in the hands of terrorists or criminals abroad. On the other hand, if the salvaged weapons grade materials are used to generate nuclear power within the U.S. and the USSR, then some of the regularly produced low enriched uranium would become excess and be available for export. However, for the short and mid-terms, there probably will be surplus capacity to produce low enriched uranium and a saturated world market.

For the short term, to 1990, the most likely fate for surplus weapons materials would be storage, assuming that use in new weapons is banned by superpower agreement. Neither the U.S. nor the Soviet Union now need new sources of plutonium or enriched uranium for their civil generation of nuclear power; neither has established commercial plutonium recycle; and neither employs high temperature gas cooled reactors fueled with highly enriched uranium to generate electricity. There will be some continuing demand in both countries for highly enriched

uranium for their nuclear navies, for a few research reactors and perhaps for some research and development. Neither would have time to build special reactors to "burn" the salvaged materials under controlled conditions.

For the mid-term, 1991-2010, there appears little prospect for any notable demand for weapons grade uranium or plutonium to start up commercial breeders. Plutonium recycle could increase depending upon the technical and economic experience with demonstration projects now going on in Europe and Japan, and whether the price charged by the U.S. and USSR to their electricity industry for weapons grade plutonium would undercut that for commercial plutonium from the reprocessing plants in Europe and Japan. Fuel demand for naval propulsion probably would not notably increase. However, requirements for high temperature gas cooled reactors could appear near the turn of the century if this type reactor lives up to its promise, particularly as a source of high temperature process heat, and depending upon the supply and prices of other sources of energy.

Whether or not more or less nuclear materials would go to storage in the mid-term would depend upon the balance between supply from dismantled warheads and other sources versus the demand for nuclear fuel materials approaching weapons grade.

As for the long term, the prospects are hazy. It is not clear whether 25 years hence the dismantling of warheads would still be going on and how much materials would then be available. Nor can one say with confidence what the demand for civil nuclear fuels might be then. Another nuclear accident comparable to Chernobyl would further depress prospects for nuclear power and for nuclear fuels; so too would develop and deployment of competitive new sources of energy. On the other hand, several decades of good safety experience combined with continued political pressures to reduce burning of fossil fuels—because of concern over the greenhouse effect and acid rain, and technical or economic limitations of other energy technologies could notably increase demands for nuclear fuels including materials salvaged from dismantled warheads. So at the time of writing it is not possible to reliably predict whether by the third decade of the next century the dismantling of warheads would still be in progress, and, if so, whether the recovered highly enriched uranium or plutonium would go to long term storage or to commercial use. Table 2 indicates a range of uses.

Of course, as suggested earlier, the superpowers could build special reactors to consume the weapons grade material, and perhaps to convert some of waste heat into electricity. However, such reactors do not now exist. Given the present economic and government deficit situation in the United States, it does not appear plausible that large new public capital and operating costs would be authorized for this purpose, particularly if the recovered nuclear weapons materials could be used by the U.S. electricity industry.

Verification

The great attention given to verification by negotiators—some would say preoccupation—in arms control talks provides reason to expect a strong interest in this matter in negotiation of an agreement on what to do with nuclear materials from dismantled warheads. Here the purpose of verification would be to assure that neither superpower can surreptitiously divert these nuclear weapons materials back to their nuclear weapons works without being detected. This condition which poses several fundamental questions about verification: What would be expected of verification? Where would verification begin? How would it be accomplished? What major factors would affect it? Who would do it?

TABLE 2.—SUMMARY OF WHERE AND HOW SURPLUS NUCLEAR WEAPONS MATERIALS COULD BE CONSUMED

Time	U.S. and U.S.S.R.	Other
Short term: to 1990:		
Breeders	Minor	Minor.
Plutonium recycle.	do	Do.
Marine propulsion, (HEU).	Some, U.S.S.R. only	No.
Special burner reactors.	No	Do.
Storage	Most	Most.
Mid term: 1991-2010:		
Breeders	Minor	Some potential increase.
Plutonium recycle.	Some	Increased.
Marine propulsion (HEU).	Some, U.S.S.R. only	Minor.
HTGCR (HEU) electricity.	Minor	Do.
Process heat	No	No.
Special burner reactors.	Possible but unlikely	
Storage	Most	Most.
Long term: 2011—:		
Breeders	Possible increase	Possible increase.
Plutonium recycle.	do	Do.
Marine propulsion.	do	Do.
HTGCR (HEU) electricity.	do	Do.
Process heat	do	Possible demand.
Storage	Depends upon dismantling rate.	Depends upon dismantling rate.

What would be expected of verification? If the superpowers agree to deep cuts in their nuclear arms, strategic or otherwise, then the purpose of verification would be to assure each side that neither could surreptitiously return weapons grade plutonium or uranium from the dismantled warheads to the backdoors of their weapons work in treaty violating quantities great enough to make an important difference. The detection should be reliable and timely enough to assure that nuclear arsenals could not be quickly increased to give one side or the other a substantial surprise advantage. This assumes, of course, that the respective weapons factories would need only a new supply of nuclear materials to quickly boost production, and does not take into account the practical details of achieving a sudden, substantial increase in manufacture of nuclear war heads. So it would be necessary that quantities of nuclear materials which might possibly be diverted without prompt discovery be small enough as not to affect the military balance between the superpowers. With this in mind, a reasonable verification criteria would be the ability to detect diversion of enough salvaged nuclear material to achieve perhaps a quick ten percent increase in production.[50] The lower the agreed limit upon inventories of weapons, the smaller this amount would be. For example, assuming the U.S. were to agree to cut its inventory of strategic arms from say 2,330 to, perhaps 1,500 weapons, and assuming all of the warheads used plutonium, with 10 kilograms of plutonium per warhead, then some 8,300 kg of plutonium would be released. To suddenly increase the reduced inventory by 10 percent would require 150 new warheads at 10 kilograms of plutonium per warhead, or 1,500 kg. For this example, a verification system should be able to reliably and quickly detect diversion of, say, 1000 kg a metric ton of plutonium. With different assumptions as to cutbacks and the amount to be detected, the sensitivity of the verification system would change. Nonetheless, the criteria to verify no diversion back to warheads would be quite different from that to assure non-nuclear weapons states do not divert enough material to make a few warheads. The present international inspection system for non-weapons states party to the Nuclear Non-Proliferation Treaty defines this "significant quantity" as the amount of material that a state would need to make its first nuclear explosive, taking into account waste and losses, namely 8 kilograms of plutonium, or 25 kilograms of uranium-235 contained in uranium enriched to 20 percent or more, or 8 kilograms of uranium-233.[51] More will be said of this criterion later.

Where would verification begin?—Verification of what is done with nuclear materials from dismantled nuclear warheads could occur in two main places: first, at the place where materials are recovered from warheads; and, second, at places involved in the fabrication and use of the recovered materials. On the whole, the overall system would include the following kinds of nuclear facilities and flows of nuclear materials:[52]

The dismantling place.—The two super powers together could jointly operate a facility, or each could have its own facilities, subject to international or bilateral monitoring, to dismantle or destroy the missiles or other ordinance that have nuclear warheads, dismantle the warheads, collect the highly enriched uranium and or plutonium, and process these materials enough to * * * their previous shapes or compositions from providing information about design of the warheads, i.e. to prevent "reverse engineering." For the warhead dismantling, two things would be verified: first, that the amount of nuclear material recovered corresponds to the amount that should be in the warheads dismantled; and, second, the amounts of these materials to be released from the dismantling facility to storage, or to nuclear fuel fabrication and subsequent use. Inspectors would be present during all dismantling operations to verify the correlation between numbers and types of warheads dismantled and material recovered. This need not involve disclosure of any secret information about warhead design.

What kind of material flows could be expected?—The flows and inventories of nuclear weapons materials, as noted earlier, would depend upon the rate of dismantling of warheads and the readiness of the U.S. and Soviet nuclear industries to use these materials for nuclear fuel.[53] While it is still too early to predict the amounts of plutonium and enriched uranium that might result from deep cuts in weapons inventories, a few examples can illustrate the kinds of material flows that might occur. The annual maximum use of these materials by a large individual nuclear power plant and also by a nuclear power industry of 20 gigawatts (GWe) electrical generating capacity is suggested in table 3. This shows that a large reactor could use the plutonium from 35 to 50 warheads per year, depending upon its design and operation, or the highly enriched uranium from about 36 to 40 warheads annually. The annual corresponding flow for 20 large nuclear power plants typically could consume materials from 800 to 900 warheads per year depending upon conditions. Taking the latter example further, the plutonium to fuel 20 GWe of generation would be about 160 metric tons of mixed uranium-plutonium oxide annually. The flow of materials from release from storage through fabrication and

to delivery for storage at the reactors is shown in Figure 2.

[Figure not reproducible in the RECORD].

TABLE 3.—EXAMPLES OF FLOWS OF NUCLEAR WEAPONS MATERIALS USED FOR CIVIL NUCLEAR FUEL

Type of power reactor	For a single nuclear power plant (1000 Mwe)			
	Warheads per year	Kilograms per year[1]	Warheads per year	Kilograms per year[1]
United States:				
PWR:				
Plutonium	35	280	804	6,432
Uranium-235	36	900	828	20,700
U.S.S.R.:				
VVER 1,000:[2]				
Plutonium	40	321	804	6,432
Uranium-235	41	1,025	824	20,600
RBMK 1,000:[3]				
Plutonium	50	400	900	7,200
Uranium-235	36	900	720	18,000

[1] Assuming 8 kilograms of plutonium per year, and 25 kilograms of highly enriched uranium per warhead (90 percent U-235)

[2] VVER is a graphite moderated, boiling water pressure tube type reactor of the kind involved in the Chernobyl nuclear accident of April 1986. It normally is fueled with low enriched uranium.

[3] RBMK is the standard U.S.S.R. pressurized water reactor and is a successor to the VVER.

Source: J. deMontmollin. Value of fissile material from dismantled warheads as reactor fuel.Working paper. Sandia National Laboratories, May 27, 1986 (Rev. 1) Tables 1 and 3.

In this example, metallic plutonium is converted into mixed oxide and then fabricated into nuclear fuel. A plant to do the same for highly enriched uranium would be similar although not interchangeable. A facility able to produce 160 metric tons of mixed oxide annually would be large enough to achieve some benefits of scale. If the conversion and fabrication processes were at separate locations, interim storage would be needed at each site to cover uncertainties in scheduling and in transportation. For this case, the distribution of the plutonium over the fuel cycle is shown in table 4. Note that of the total, about 5 percent of the plutonium typically would be in transit between facilities, 3 percent in process and the remainder in storage at various locations.

How would verification be accomplished?

There are many ways to verify that valuable or dangerous materials are accounted for. The one following is based on decades of national experience in verifying that civil nuclear materials have not been diverted to make nuclear weapons. The basic idea is straightforward. Records are kept to account for the materials; these accounts are verified by periodic inventories taken independently by the users and by international inspectors; assurance of no diversion between inspections is provided by installation of monitoring equipment and by use of locks and seals to show there has been no unauthorized access to or movement of materials (surveillance) and by physical barriers to keep unauthorized persons away from the materials (containment). For sensitive nuclear materials—plutonium and highly enriched uranium—continuous monitoring probably would be desirable at places where these materials are handled in bulk form. This whole system of accounts, inventories, inspection, surveillance and containment is called "safeguards."

TABLE 4.—ESTIMATED DISTRIBUTION OF MATERIALS OVER THE FUEL CYCLE SHOWN IN FIGURE 1

Stage	Average time, days	Average quantity, Pu (kilograms)
Metal Storage		
Transport	10	218
Conversion:		
Feed storage	60	1,310
Process	5	110
Interim storage	90	1,960

TABLE 4.—ESTIMATED DISTRIBUTION OF MATERIALS OVER THE FUEL CYCLE SHOWN IN FIGURE 1—Continued

Stage	Average time, days	Average quantity, Pu (kilograms)
Fabrication:		
Process	8	181
Product storage	100	2,180
Transport	10	218
Reactor Storage	100	2,180

Source: J. deMontmollin. Verification of peaceful use of reclaimed warhead material. Working paper. Sandia National Laboratories, June 1986, table 1.

Verification of dismantling warheads.—The principal function of verification at a dismantling facility would be to assure that warheads brought there indeed are dismantled, and that the amount of nuclear materials recovered is what it ought to be. In some schemes, the dismantling center could also verify the dismantling of an entire missile or other carrier as well as the warhead itself. However, this analysis is limited to the narrower function of dismantling warheads and recovering their nuclear materials.

Given the sensitivity of the dismantling step, because it would produce substantial amounts of weapons-grade materials in bulk form, continuous surveillance would be expected, with inspectors present during all dismantling operations to verify the correlation between numbers and types of warheads dismantled and materials recovered. One way suggested by some analysts to provide such visual surveillance while at the same time preventing inspectors from gleaning secret information on warheads design and fabrication by observation would be to build an overhead observation gallery in the dismantling area. The inspectors could be close enough to follow the progress of warheads through dismantling, but far enough away not to be able to see secret details.[54] Verfication at the dismantling site also would include sampling and analysis of samples of the recovered nuclear materials to assure they are of the expected purity and composition, and to provide accurate information on the amounts and kinds of materials released from the dismantling facility to off-site storage, or to fuel fabrication and use.

Verification of the fuel fabrication and use.—Once the weapons grade plutonium or uranium are released from the dismantling center, verification that these are not later diverted would be accomplished by a safeguards systems. Considering the sensitivity of the weapons grade plutonium and uranium, the frequency of inspections and the extent of surveillance and containment would be substantially more than that for fabrication and use of nuclear fuels containing low enriched uranium.

In the view of one safeguards expert,[55] and as shown earlier in table 4, because only a small part of the reclaimed weapons materials would be in process at a given time, verification need not require inspection of the process equipment itself. Table 4 indicates that typically only about 3.5 percent of the material released to fuel fabrication would be in process, with the remainder in various interim storage places. So, even without continuous inspection of the fuel fabrication lines, the quantities of nuclear materials involved could be indirectly verified through prior agreement on maximum allowable quantities in process and by analysis of the flow of materials into the plant and of fabricated fuel out of it. This approach would shift the burden of inspections away from production lines and to places where production would not be interrupted or commercial fuel fabrication know-how compromised by inspection. Direct verification of materials in interim stores would be desirable and reasonable. Records and accounts would be set up at the fabrication plants, storage places for bulk materials and for fabricated fuel, and at the power reactors so that a continuing materials balance could be maintained to show that all of the nuclear materials are accounted for.

How frequently the materials balances should be verified and how much uncertainty would be acceptable in comparing inventories with book amounts is an open question. Some uncertainties inevitably occur when materials are converted from one form to another and when they are fabricated into a final product, and taking inventories is a nuisance. The acceptable limits of timeliness of materials balances and acceptable uncertainties probably would be determined more by the risk from undetected diversion on the superpower nuclear arms military balance than by the technical limits of nuclear materials accounting and verification. Where reasonable values could be months and hundreds of kilograms for the fissionable materials involved.[56]

How the basic mechanisms for verification might apply to the dismantling and fabrication phases is suggested in table 5.

Who could do the verification?—Verification that nuclear materials from dismantled warheads are used to fuel nuclear power plants and are not secretly returned to nuclear weapons in violation of arms control agreements would have to be accomplished by effective safeguards with inspectors on site at the dismantling place. These inspectors could be provided by national or joint U.S.-Soviet inspection organizations, or by a new or existing international organization. Table 6 suggests available options.

Each superpower presently has national inspection organizations that could provide inspectors qualified to jointly verify dismantling of nuclear weapons, their warheads, the amounts of materials recovered, the inventories awaiting release, and the releases of such materials to fuel use. Such inspection teams clearly would be under direct control of each superpower and would report to them. Each superpower could choose the inspectors with full knowledge of their technical capabilities. On the other hand, bilateral superpower inspection teams would give little assurance to other states that nuclear materials from their dismantled superpower warheads do not return by mutual connivance to the backdoors of their weapons plants.

TABLE 5.—BASIC MECHANISMS FOR VERIFICATION

Means	Dismantling of warheads	Fabrication of recovered materials into nuclear fuel
Observation (Internal)	Continuous	Periodic.
Records and Accounts	Detailed	Detailed.
Inventory verification:		
Sampling	Yes	Yes.
Analysis	Yes	Yes.
Surveillance	Continuous	Cameras, seals, other devices between inspections.
Containment	Access to facility tightly controlled.	Barriers to prevent unauthorized access and related measures
Inspection (external)	Continuous	Periodic.

TABLE 6.—ORGANIZATIONAL OPTIONS FOR VERIFICATION OF THE DISPOSAL OR USE OF NUCLEAR MATERIALS FROM DISMANTLED WARHEADS

Type organization	Dismantling of weapons	Dismantling of warheads	Interim storage of nuclear material	Use of nuclear material
National inspection	Yes	Yes	No	No
Joint inspection	Yes	Yes	Yes	Perhaps
Third country inspection.	No	Perhaps	Yes	Yes
International inspection:				
A new organization.	No	Perhaps	Yes	Yes
The IAEA	No	Perhaps	Yes	Yes

Another option, in principle, would be for the superpowers to have a neutral third nation provide independent inspection and verification services. Under this option, neither superpower would be bothered with inspectors from the other, however they might not have as much confidence in third-party inspection as in their own direct or joint verification. Also third-party verification would not help with the demands of other states, particularly nonnuclear weapons states, to be assured that the dismantling is real and not a charade.

Another option would be to draw upon well established and demonstrated systems and technologies of the International Atomic Energy Agency to verify nuclear inventories, assure they remain under proper control and accountability in between inspections, and assure they are physically protected from unauthorized access. The IAEA has been such, providing inspection service upon request for many years and has substantially improved its systems and equipment. However, there remains doubt in some circles about the adequacy of IAEA safeguards system to assure timely warning of diversion of small quantities of highly enriched uranium or plutonium.

Still another option would be for the superpowers to arrange with the IAEA, or some new international organization, to provide verification service. In this case, for political reasons it probably would not be wise to have the Agency verify the dismantling of weapons or of warheads. But, it could verify recovered materials held in storage by the superpowers and continue fabrication and use of these materials for nuclear fuel. Since each superpower already has voluntarily agreed to allow the IAEA to inspect some civil nuclear facilities, the principle of inspection and verification has been accepted. If the nuclear material in fuel use were placed in IAEA safeguards, then other states would have some assurance that unresolved discrepancies found by inspection would be reported to the Agency's Board of Governors, and to its membership and the United Nations. On the other hand, to involve the Agency directly in as contentious and sensitive a matter as superpower arms reduction could put it at grave risk. The Agency would have little protection if the superpowers were to disagree over the outcome of an IAEA inspection and were to attack it politically. While over recent years the superpowers have mutually supported the Agency, that was not always the case and the IAEA could be gravely injured if caught in a superpower crossfire. Also, it should not be assumed that other IAEA member states would favor the Agency taking on verification for the superpowers, or that the Agency would wish to run the potential risks involved notwithstanding assurances of superpower support and good intentions. On the whole, the main reason for turning to the IAEA would be to provide assurance both to the superpowers and to other nations that recovered weapons grade nuclear materials released to fuel use are accounted for and are not surreptitiously recycled back into new warheads.

Alternatively, the superpowers and other nuclear power states in principle might band together to create a new international organization to verify their disposal of surplus weapons grade materials. At first blush, however, prospects for this would appear to be dim. First of all, to establish a new international agency given present world conditions and the continuing criticisms of international organizations, would be formidable indeed. It might well require amendment to the non-proliferation treaty, where changes could be blocked by some determined nonaligned states. Second, a new agency would duplicate the safeguards function of the IAEA and would be seen as a major superpower vote of no confidence in the reliability and effectiveness of the Vienna agency. So the superpowers probably would not seriously consider a new agency unless the IAEA itself for some reason should become ineffective in the future.

A limited version of a new international organization would be for the superpowers to set up their own joint operation for mutual verification. While this would be comparatively easy to do, other nations probably would view it as indicating that the superpowers were unconcerned about assuring other countries that U.S. and Soviet surplus weapons grade materials indeed are used for peaceful purposes and not secretly recycled back into their weapons factories.

Relation to U.S. Non-Proliferation Policy

Background.—Toward the end of President Ford's administration, some public interest groups and academics began to revive questions about the risks of commercial production and use of plutonium as a nuclear fuel. They argued that governments of non-nuclear weapons states, or criminals or terrorists might seize this material and try to make it into atom bombs. These doubts were reflected in a flurry of proposed bills in Congress and by President Ford's October 1976 statement on nuclear policy.[57] In this he said the United States should "greatly accelerate its diplomatic initiatives in conjunction with nuclear supplier and consumer nations to control the spread of plutonium and technologies for separating plutonium." He also announced that the United States would no longer regard reprocessing of spent nuclear fuel to produce plutonium as a necessary and inevitable step in the nuclear fuel cycle. Instead, the U.S. should pursue reprocessing and recycling of plutonium in the future only if they were found to be consistent with U.S. international objectives. He called on other nations to join the U.S. in exercising "maximum restraint" in the transfer of reprocessing and enrichment technologies and facilities for at least three years.

President Carter quickly expanded on this theme. In April 1977[58] he announced that the U.S. would defer indefinitely the commercial reprocessing and recycling of plutonium produced in the U.S. nuclear power plants; the U.S. breeder reactor program would be restructured to give greater priority to alternative designs and to defer the date when breeders would be put into commercial operation; nuclear research and development would be redirected into alternative nuclear fuel cycles which did not involve direct access to materials usable for nuclear weapons; the U.S. would continue to embargo the export of equipment or technology for uranium enrichment and reprocessing; and the U.S. would continue discussions with other countries of ways to permit them to achieve their energy objectives while reducing the spread of nuclear explosive capability.

Four years later, President Reagan's incoming administration deemphasized this earlier opposition to commercial plutonium. His statement of July 16, 1981,[59] said that his administration would not ". . . inhibit or set back civil reprocessing and breeder development abroad in nations with advanced nuclear power programs where it does not constitute a proliferation risk." On the other hand, the Reagan administration does oppose the spread of plutonium to states not in this category. This policy continues unchanged.

Meanwhile, concerned U.S. public interest groups and academics have continued to question the wisdom of commercial production and use of plutonium as a nuclear fuel, and to urge that the United States use its influence to dissuade other nations from proceeding with breeder development, reprocessing, and fuel use of plutonium. They would favor the position of the Carter Administration that the nuclear fuel cycle which presents the least risks of further nuclear weapons spread is the one which uses low-enriched uranium for fuel, does not reprocess spent fuel to recover its plutonium, and permanently buries the spent fuel intact. This is called the once-through fuel cycle.

On the other hand, the nuclear industries and governments of France, West Germany, India, Japan and West Germany as well as the Soviet Union all continue to work towards the commercialization of plutonium as a nuclear fuel, although at a slower pace than would have been expected in 1960s. Any current U.S. misgivings about commercial plutonium appear to have had little effect abroad. Highly vocal opposition in France and West Germany may have more effect.

Doubts about plutonium were reflected in views of some members of Congress and in hearings on the Nuclear Non-Proliferation Act of 1978 (NNPA). While the NNPA did not prohibit production and use of plutonium for nuclear power in the United States, Congressional concern was evident in the opening policy statement of the Act, which says:

"The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development."

Also NNPA section 104 which proposed an international nuclear fuel authority, specified that participating states agree not to establish any new enrichment or reprocessing facilities and to place existing facilities under "effective international auspice and inspection." NNPA section 131, which specifies criteria for U.S. approval of reprocessing of U.S. controlled spent fuel abroad, also underscored concern about plutonium by requiring a judgment of the Secretaries of Energy and State that the reprocessing, or transfer of recovered plutonium, will not result in a ". . . significant increase of the risk of proliferation beyond that which exists at the time that approval is requested," and that in making this judgment "foremost consideration" be given to whether or not the reprocessing or retransfer will take place under conditions that will ". . . ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear weapon state could transform the diverted material into a nuclear explosive device."

Since then, legislation has been proposed in the 98th and 99th Congresses to further restrict U.S. approvals for reprocessing of spent fuels abroad and use of the plutonium from it. A comprehensive example is H.R. 903, introduced by Mr. Wolpe and 34 cosponsors in January 1985. In it he proposed that Congress find and declare that the spread of highly enriched uranium and separated plutonium, or the direct capability to manufacture or otherwise acquire such materials, poses a grave threat to the security interests of the United States. In effect, the bill would prohibit U.S. approval of reprocessing to obtain plutonium for purposes other than research and development until the congress finds that "effective international safeguards will be applied to reprocessing and to separated plutonium", and that "effective international sanctions" against violation of nonproliferation commitments have been established to deter nonnuclear-weapons states from diverting separated plutonium to the manufacture of nuclear explosive devices.

The House Committee on Foreign Affairs held a hearing on U.S. plutonium use policy in June of 1985.

Implications for proliferation.—Disposing of salvaged weapons grade materials by fissioning them in nuclear power plants in the U.S. and the USSR would appear to be consistent with the views of the Reagan Administration. "Burning" the weapons materials to generate electricity probably would be viewed by world nuclear industries as supporting the proposition that in the long run plutonium will be used as a nuclear fuel and that this can be done within acceptable proliferation risks.

On the other hand, those who favor the restrictions of the Carter Administration to civil use of plutonium probably would argue that international safeguards and other controls remain inadequate to assure that dangerous amounts of commercial plutonium are not stolen or diverted; commercial plutonium is not needed now or in the long run because other energy sources are or will be available and conservation can slow future growth in energy demand; and if salvaged weapons materials is to be disposed of by fissioning, this should be done in special reactors built and dedicated for this purpose, with these reactors and associated facilities subject to international inspection and safeguards. On the other hand, to build and operate such burner reactors would require a large public investment in facilities that would produce nothing to help the U.S. economy. Also it could be argued that if the Soviet Union were to assign much of the salvaged nuclear materials to its breeder reactor development, this would put pressure upon the United States to revive its now disorganized breeder efforts.

Comparison With Atoms for Peace

President Eisenhower proposed in Atoms for Peace in 1953 that the United States and the Soviet Union, as well as other governments, contribute jointly from their stockpiles of normal uranium and fissionable materials to an International Atomic Energy Agency. The ratios of contributions, procedures and other details were to be worked out through private conversations. The Agency would be responsible for the "impounding, storage, and protection of the contributed fissionable and other materials," and would allocate these materials to users. One special purpose would be to provide abundant electrical energy to power-starved areas of the world. While Atoms-for-Peace did not directly mention verification, President Eisenhower alluded to it indirectly, saying: "The ingenuity of our scientists will provide special safe conditions under which . . . fissionable material [donated to the Agency] can be made essentially immune to surprise seizure."

Turning now to comparison of Atoms-for-Peace with a disposal agreement, the United States and the Soviet Union could initially place materials from dismantled warheads in national storage centers, or perhaps in an external international storage center, until they could be fabricated into fuel for use within these countries. It seems unlikely that either superpower would export these materials to fuel nuclear power in other countries. Verification that the materials are used solely for peaceful purposes could be accomplished, as discussed earlier, by a combination of bilateral and IAEA inspection.

Atoms-for-Peace was proposed at a time when civil nuclear power was in its infancy, when commercial nuclear power was yet to be realized, but when great expectations abounded for it. A disposal proposal today would come in a world where nuclear power is well established in major countries contributing overall about 15% of world electricity production and, in some countries, 50% or more. In 1953, conventional wisdom in nuclear circles took for granted the development of breeders and commercial use of plutonium. Today, a slowed growth rate in nuclear power generation, a surplus of enrichment capacity and uranium supplies coupled with high costs of reprocessing and of plutonium fuel fabrication have slowed the drive toward plutonium. The effect of today's surplus of nuclear fuels has been to reduce national concerns over security of that supply. Nonetheless, many restrictive conditions have been attached by some supplier countries to their sale of enrichment and or uranium in the name of non-proliferation policy. These restrictions give some support to the argument that commercial fuel use of plutonium remains a prudent way to reduce national dependence upon uncertain unpredictable foreign suppliers.

In 1953, the technology for plutonium fuel was in gestation. In 1986 its technology is well demonstrated, but is not in commercial application. In 1953, widespread public pressure for nuclear arms control was still beyond the horizon. Indeed, in some quarters nuclear arms were welcomed as a cheap way to protect the national security. Today public pressure for arms control is real in the United States and among some of our allies. Four decades ago, there was no international system to verify that nuclear materials are used only for peaceful purposes. Now an international agency exists with well over a decade of demonstrated performance in inspection and verification in support of the nonproliferation treaty.

In 1953, Atoms for Peace was a radical proposal. It was controversial and it occupied center stage. Today a proposal for verified disposal of nuclear weapons materials as fuel for civil nuclear power probably would take a lesser place with the arms control drama continuing to hold center stage.

Advantages and Disadvantages of Using Materials From Nuclear Warheads To Generate Nuclear Power

Disposing of nuclear materials from dismantled warheads by consuming them in nuclear power reactors has one indisputable arms control advantage. Every atom of uranium-235 and of plutonium so consumed cannot later be used to make more nuclear warheads. Like Humpty Dumpty, once fissioned they cannot be put back together again. Beyond this, perceptions of other advantages and disadvantages are likely to be determined or colored by the fundamental interests of those looking at the idea. Widely different views can be expected within the Administration[60] and from the defense, arms control and nonproliferation communities, the nuclear industry, and the critics of nuclear power. Likewise, differing views can be expected from abroad.

Some technical considerations restated.—Before sketching some of the differing perspectives on disposing of nuclear weapons materials by consumption in nuclear power plants, it is useful to recall some basic technical considerations of the disposal idea.

Ways of using plutonium to fuel nuclear power reactors are well advanced in several countries, and highly enriched uranium can be easily diluted to fuel grade.

Highly enriched uranium once diluted to fuel grade cannot be directly reused to make warheads. It would have to be re-enriched.

The plutonium produced by most conventional nuclear power plants is so poor in quality that none of the nuclear weapons states use it to make warheads. Nonetheless, low quality plutonium could probably be made into very dangerous nuclear explosives.

Breeder reactors which can readily produce high quality plutonium are not now in commercial use and at least a few decades will pass before many are built and operating

Present IAEA safeguards, if fully employed in the United States and the Soviet Union are deemed sensitive enough to detect diversion of amounts of weapons grade materials large enough to permit a notable increase in warhead production by either superpower.

Continued work on reprocessing facilities in several non-nuclear weapons states—particularly West Germany, Japan and India—give reason to expect that many metric tons of low grade plutonium will be separated from spent fuel during the next two decades. If both low and weapons grade materials were used on the same factories to make nuclear fuels, accountability and control for the weapons grade materials could be lost.

Continued progress with laser isotope separation for plutonium would open the way to produce weapons grade material from low grade material. If the superpowers were to build and operate such plants in secret, they could use upgraded plutonium derived nuclear power plants to replace much of the plutonium from warheads turned over to civil fuel use unless there is effective, sensitive and verified accounting for all plutonium separated from spent fuel from power reactors.

On the whole, most questions are likely to be about fuel use of weapons grade plutonium. Corresponding questions about weapons grade uranium could be largely met by quick action to degrade this material to enrichments suitable for fuel use.

Differing arms control viewpoints.—The arms control advocates are of two camps: those who see progress towards nuclear arms control through small steps, and those who prefer a big step forward. For the first, the idea of consuming nuclear weapons materials in nuclear power reactors, particularly if an agreement could be negotiated and a trial demonstration undertaken before deep cuts were settled, would be a constructive step towards the larger goal, and could make its attainment more likely by demonstrating the practicability of verification. They probably would welcome the additional support this step could generate for the non-proliferation treaty and for the IAEA and its safeguards functions. On the other hand, those arms controllers who favor the big step approach

to a deep cut, with disposal to be part of the agreement or to be negotiated later, might well oppose the idea. For some it would be premature at best, and could divert time, attention and technical expertise from the central mutual security issues and their resolution. Moreover, premature negotiations on disposal would give rise to expectations for further progress that could produce a backlash if an agreement on deep cuts did not follow.

Finally, an agreement on disposal could create unjustified hopes that verification could be accomplished for all parts of a nuclear arms control agreement even though verification of disposal would solve only a small part of the overall verification problem.

Differing views of the U.S. defense community.—The U.S. defense community, considering present difficulties of the Department of Energy in maintaining production of new weapons grade plutonium[61] might prefer to use materials from strategic missiles dismantled under a strategic missile arms control agreement to make more warheads for short range missiles or other nuclear weapons not covered by the agreement. This would be contrary to the fundamental idea of Atoms-for-Peace. Their views on the disposal proposal probably would also be colored by their approach to a strategic arms agreement which some might favor as sound and verifiable while others would doubt its reliability. Both camps probably would oppose any proposal, such as the disposal idea, that could divert attention from the central national security issues of an arms control agreement.

Differing non-proliferation viewpoints.—Those concerned with ways to avoid further spread of nuclear weapons probably would welcome the disposal idea because of the support it could generate for the non-proliferation treaty and for the probable inspection and verification functions of the IAEA. Depending upon the timing of diplomatic and practical realization, expected positive effects could help the United States and other major states to get an extension of the NPT in 1995 on terms favorable to their mutual security interests. On the other hand, the impetus given to commercial use of plutonium as a nuclear fuel would be seen, at least in some non-proliferation quarters, as troublesome because the IAEA has yet to complete development of safeguards systems for nuclear facilities handling large amounts of plutonium, and some doubt this will be possible. Also, because technical standards to verify no-diversion in the nuclear weapons states would be less demanding than those for non-weapons states there could be pressures among the latter to downgrade existing IAEA standards, which could increase risks of undetected diversions of plutonium in these states.

Differing nuclear power viewpoints.—The nuclear power part of the Department of Energy and the U.S. nuclear fuel industry and nuclear power plant operators probably would welcome the implicit additional support for nuclear power in this country, but would see little benefit here from using weapons plutonium for commercial fuel, at least until the economics of private reprocessing and fuel fabrication improve enough to compete with low enriched uranium. DOE additionally could be concerned that plutonium fuel would cut its enrichment sales and threaten the economic viability of its enrichment plants. Also the weapons part of DOE and the Defense Department probably would be less favorably inclined, and would presumably favor weapons reuse of nuclear material originally produced for weapons. The nulcear power utilities and the nuclear fuel suppliers probably would not welcome more government intrusion and regulation of an already highly regulated industry, nor would they welcome public controversy over fuel use of plutonium.

Proposals to subsidize plutonium fuel could run into opposition from those seeking to reduce the Federal budget deficit, and controversy could be expected on the pricing of plutonium from the warheads. There could also be concerns that pressures to find increased and more stable funding for IAEA safeguards could lead to some kind of new charge or fee levied on nuclear power generation. The industry probably would show little interest in the safeguards aspects unless they proved costly or awkward to plant owners and operators. DOE, however, probably would seek more funds to increase U.S. technical assistance to IAEA safeguards operations.

The Nuclear Regulatory Commission could have reservations about quick licensing of commercial nuclear fuel fabricators and nuclear power utilities to use plutonium fuel. For one thing, the long delayed generic environmental impact statement on use of mixed oxides would have to be revived and completed as a prerequisite to any licensing actions. This probably would attract intervention and perhaps litigation by critics of nuclear power. Also NRC might have to review and upgrade its standards for physical protection of weapons grade materials if these are to be used in bulk form in increased quantities.

Differing views of nuclear power generation opponents.—Some opponents of nuclear energy in the United States and abroad, seeking principally to avoid terrorist sabotage and "Nth nation proliferation," focus their opposition mainly on the commercial production and use of plutonium for nuclear fuel. They argue that commercial quantities of plutonium in transit, in storage, and in fabrication would unacceptably increase the dangers that terrorists or criminals could seize enough of this material to make crude but destructive nulcear explosives; or that governments of non-weapons states could seize it to make nuclear weapons. From this viewpoint, they would prefer some other way to dispose of the weapons grade plutonium. Degrading weapons grade uranium to fuel grade probably would not give them problems.

Many other nuclear opponents would prefer to shut down existing nuclear power plants and ban future nuclear power generation because of unacceptable dangers they see to public health and safety and of contamination of the environment. For them, the implicit endorsement of nuclear power by the disposal idea would be objectionable, and disposing of weapons grade materials by using it for nuclear fuel would be stoutly resisted. At the moment, this sector of the opposition has not produced its own alternative for disposal of the salvaged weapons materials.

The nuclear opponents in general could be expected to challenge the technical capability of safeguards to give adequate timely warning of small diversions of weapons grade materials. They probably would not agree that technical standards for safeguarding disposal of nuclear weapons materials in the superpowers could be less than those for non-weapons states.

Differing views abroad.—What the lesser nuclear weapons states—the United Kingdom, France and China—might think about the disposal idea is by no means clear. They might welcome it as a step toward the universal goal of nuclear arms control. But they might also wish to see how the idea works before committing themselves to join. As for the non-nuclear weapons states, many probably would welcome the idea as new progress towards the arms control commitments undertaken by the superpowers in the NPT. Even the notable holdout states from the NPT could feel new pressure to make some kind of non-weapons pledge. On the other hand if progress towards arms control were to stop with an agreement on disposal, a backlash could be expected that might endanger extension of the NPT in 1995 on terms preferred by the United States. Also some of the third world states might fear the IAEA would become preoccupied with arms control—which is not one if its statutory functions, and neglect its technical assistance to nuclear energy, both for power and non-power purposes. They might also fear that an arms control role for the agency could give the superpowers reason to further dominate its activities and to divert it from its central purposes of technical assistance; while others might fear for the future of the agency were it to become embroiled in superpower disputes over verification issues.

Conclusion

In sum, the idea of disposing of nuclear materials from dismantled warheads by using them to fuel nuclear power reactors can pose difficulties for both the critics and the supporters of nuclear power. Critics are likely to object to the implied additional endorsement the idea gives to nuclear power and to the idea that plutonium can be used as a nuclear fuel without unacceptably increasing risks that it may be diverted or stolen to make nuclear weapons by governments or by terrorists. While nuclear critics can be expected to favor arms control and reduction, their writings have yet to come to grips with the question of what to do with the materials from dismantled warheads. They might favor some scheme to permanently bury the surplus plutonium with spent fuel so that the intense radiation from the latter would be a formidable barrier to any future attempts to recover that plutonium. U.S. proponents of nuclear power probably would support the fuel conversion idea. Still over recent years the industry has said little about proliferation, being preoccupied with its domestic economic and political survival. However, it might well argue against any further government intervention in the nuclear power business, based on its unhappy experience with national and state regulatory bodies. Nevertheless, nuclear power interests abroad, notably in France and Japan and West Germany, might be more supportive because they still expect to use plutonium as a commercial nuclear fuel.

On the whole, from a technical viewpoint, disposal of surplus nuclear weapons materials by using them as nuclear fuel appears to be practicable. From an economic viewpoint, there are conflicting opinions between those who say costs of producing and using plutonium will not become competitive with uranium, and those who expect plutonium production and fabrication costs to drop as working experience becomes more available and new reprocessing plants are built. The outcome of this argument could influence the economic aspects of disposal in the U.S. From a political viewpoint, the proposal seems likely to trigger another round in Washington of the long running arguments for and against nuclear power, particularly

for commercial production and use of plutonium as a nuclear fuel. Here again, the intensity and outcome of these arguments could influence the U.S. approach both to a disposal policy and to putting it into effect.

APPENDIX A: SOME FURTHER THOUGHTS ON USE OF THE EXPERIENCE AND PERHAPS THE ORGANIZATION OF THE IAEA

For many years, how to verify arms control agreements has been a troublesome question. Consideration of the experience with the Nuclear Non-Proliferation Treaty (NPT) since it took effect in 1970 may be instructive. There has been reasonably successful international inspection to verify that nuclear materials in non-nuclear weapons states party to the treaty are not diverted from peaceful uses to make nuclear weapons or other nuclear explosive devices. The NPT commits its non-weapons members to negotiate safeguards agreements with the International Atomic Energy Agency that specify the purpose, procedures and other details of the inspections.[62] Moreover, the United States, the Soviet Union, the United Kingdom and France all have voluntarily opened some of their civil nuclear installations to international inspection by the IAEA and have negotiated the necessary agreements. The objective of IAEA safeguards for its most widespread system, i.e. that for non-nuclear weapons states party to the nonproliferation treaty, is the "timely detection of diversion of significant quantities of nuclear material from peaceful nuclear activities to the manufacture of nuclear weapons or other nuclear explosive devices or for purposes unknown, and deterrence of such diversion by the risk of early detection."[63] The Agency defines significant quantity as "the approximate quantity of nuclear material in respect to which, taking into account any conversion process involved, the possibility of manufacturing a nuclear explosive device cannot be excluded."[64]

The idea that IAEA inspection experience could be relevant for verification of arms control agreements has been mentioned several times by Dr. Hans Blix, director general of the IAEA. For example, in 1983 he called attention to the inspection system of his agency as the "first and so far only working experiment system of verification." Addressing the Bar Association of the City of New York, he said:

"Verification is the issue on which most disarmament proposals have come to a deadend. In IAEA safeguards we have the first and so far the only working international system of verification. This is the first time that sovereign states have permitted an impartial international organization to send its staff into their territories and to carry out inspection on large and sensitive installations. It is interesting that NWS (nuclear-weapons states) too, including the Soviet Union and the United States, have shown readiness to accept this system on some peaceful installations."[65]

This idea has received recognition in Soviet writing. For example in 1983 a Soviet official in a statement at the United Nations[66] expressed the view that the experience of the IAEA could be used for the verification of specific nuclear disarmament measures. Also in February 1986, Timorbayev, Soviet Deputy Director for International Organizations, said at a press conference in Vienna that his country takes a positive stand on the question of whether the IAEA can play a role in the verification of joint nuclear disarmament. The Agency's "rich experience . . . in safeguards can be usefully employed over many phases of disarmament." The Soviet Union, he said, favors "improvements of such experience."[67] The IAEA in 1986 enthusiastically described the Agency's safeguards system as "the most advanced international arms limitation verification system in existence, providing a higher degree of confidence and security amongst countries that any comparable international arms control system in force or under discussion."[68]

To be realistic, IAEA safeguards experience promises no quick and easy solution to as complicated a matter as verification of nuclear disarmament. Clearly, the Agency's experience would not be uniformly useful or pertinent across the whole range of verification requirements for nuclear arms control and disarmament. Nonetheless, there are some notable undertakings where this experience could offer promises, namely for:

A freeze of production of nuclear weapons materials;

A freeze of production of nuclear warheads;

An agreement to dismantle nuclear warheads and missiles; and

An agreement on how to dispose of weapons grade materials from dismantled warheads.

In thinking about steps to limit and perhaps to decrease inventories of nuclear weapons, it is reasonable to ask whether the IAEA itself could be assigned an operating role. Indeed, the international statute of the Agency contains authority, still largely unused, for it to establish or acquire plant, equipment, and facilities for the receipt, storage and issue of nuclear materials. If political agreements could be reached, this authority might be used to establish IAEA controlled repositories within each superpower to receive nuclear materials in the following forms:

Weapons grade materials recovered from dismantling nuclear warheads;

Working inventories of other weapons grade materials; and

Warheads from dismantled nuclear weapons, while awaiting salvage of their nuclear materials.

While either superpower could easily oust agency staff at such repositories and seize their contents, such acts would be self-announcing and provide early warning of their intention to boost or to resume manufacture of nuclear weapons.

It is one thing to speculate about assigning of new arms control functions to the IAEA. It is quite another to judge the practicability of this idea and what would be needed to bring it to application. Clearly there would be difficulties, risks, and opposition. However, if arms control talks reach a stage where reductions appear likely, then the familiarity of both superpowers with the agency and its workings might give them reason to consider expanding its role, or at least to adapt some of the verification technologies it has developed.

IAEA safeguards and verification.—The IAEA safeguards system is intended to verify that no diversion of safeguarded nuclear material has occurred and that safeguarded nuclear plants are not used to further any military purpose. Safeguarded facilities are visited regularly by agency inspectors, who audit the records and verify the presence of nuclear material through the use of sampling and chemical analysis, nondestructive measuring instruments or other safeguards methods.

The political objectives of safeguards as seen by the IAEA are twofold:[69]

To assure the international community that states are complying with their nonproliferation and other "peaceful use" undertakings; and

To deter the diversion of safeguarded nuclear materials to the production of nuclear explosives or for other military purposes, and the misuse of safeguarded facilities with the aim of producing unsafeguarded nuclear material.

As noted earlier, the technical objective of the agency's principal safeguards system—that for non-weapons NPT members—is defined as "the timely detection of diversion of significant quantities of nuclear material from peaceful nuclear activities to the manufacture of nuclear weapons or other nuclear explosive devices or for purposes unknown and deterrence of such diversion by risk of early detection."[70]

Concerning "significant quantities," the agency says that detection within hours of small amounts is not necessary and cannot reasonably be required. For IAEA purposes, the significant quantity is the approximate amount of nuclear material which could possibly be used to make a nuclear explosive, which is set at about eight kilograms of plutonium or twenty-five kilograms of uranium enriched to more than 20 percent U-235. Similarly, "timely detection" is related to the time required to convert diverted material into parts for a nuclear explosive. This time can range from days to weeks to months or longer depending upon the type and quality of the material diverted and the design of the explosive.

Safeguards depend upon inspection to verify the records and accounts of nuclear materials maintained by safeguarded states. These inspections are supplemented by containment and surveillance. As noted earlier, containment refers to use of physical barriers such as walls, containers, tanks or pipes, to restrict or control the movement of or access to nuclear materials. It can help to reduce the probability that undetected movements of nuclear material or equipment could occur. Surveillance refers to human and instrumental observation to detect undeclared movements of nuclear materials, tampering with containment, fabrication of false information, or tampering with safeguards devices. Surveillance typically may involve the use of tamper-resistant automatic cameras. In some circumstances, full time IAEA inspectors may be present. On the other hand, a working principle of IAEA safeguards is that containment and surveillance measures be designed to minimize intrusion in the work of a nuclear facility.

Strengths of IAEA safeguards.—Like other things in life, IAEA safeguards show both strengths and weaknesses. Looking first at their strengths, the following can be said, particularly from the viewpoint of possible usefulness of safeguards experience for arms control.

First the establishment of IAEA safeguards marks a rare instance of sovereign states inviting an international organization to make inspections within their territories on large and sensitive installations.

Second, and as noted earlier, four of the world's five nuclear weapon states have already invited the agency to inspect some civil nuclear installations within their territories. The Soviet Union, in 1982 declared itself ready to negotiate such a safeguards agreement with the agency. That negotiation is now completed and is expected to result in several Soviet nuclear power plants and other civil nuclear facilities being opened to international inspection. The Agency's Director General points out that "these inspections demonstrate that nuclear

weapons states, too, are prepared to accept inspection in loco of peaceful nuclear activities and that these safeguards do not lead to commercial disadvantage."[71]

Third, IAEA safeguards have been accepted by virtually every state for their nuclear imports. NPT states, have gone farther and have opened all of their peaceful nuclear activities to IAEA inspection.[72]

Fourth, safeguards are seen as a way to build confidence that nonnuclear-weapon states do not use their civil nuclear industries to produce nuclear materials.

Fifth, safeguards are widely accepted as able to sound an alarm of diversions of nuclear materials in amounts that would permit production of a nuclear arsenal, at least for the fuel cycles now in common use.

And, sixth, the agency also has improved the concepts and equipment for containment of nuclear materials and surveillance as supplementary ways to increase confidence that diversions have not occurred.

The limitations of safeguards.—But safeguards also have their limitations, IAEA safeguards have been challenged by critics in the United States and abroad. Indeed, Nunzio J. Palladino, then chairman of the Nuclear Regulatory Commission, in 1982 advised Congress of the Commission's concern that "the IAEA safeguards system would not detect a diversion in at least some types of facilities." In addition, the NRC was not confident that "member states would be notified of a diversion in a timely fashion."[73]

Pointing out limits to safeguards is nothing new. As early as 1946, consultants to the Secretary of State's Committee on Atomic Energy mentioned such limitations. Chaired by David E. Lilienthal, who later became the first chairman of the new U.S. Atomic Energy Commission, the consultants said, in part:

"We have concluded unanimously that there is no prospect of security against atomic warfare in a system of international agreements to outlaw such weapons controlled only by a system which relies on inspection and similar police-like methods.

"We are convinced that if the production of fissionable materials by national governments . . . is permitted, systems of inspection cannot by themselves be made "effective safeguards . . . to protect complying states against the hazards of violations and evasions."[74]

This did not mean the consultants saw no value in inspection, for they wrote:

"It should be emphasized at this point that we do not underestimate the need for inspection as a component, and a vital one in any system of safeguards—in any system of effective international controls."

That IAEA safeguards have limitations is freely acknowledged today. Dr. Hans Blix, the agency's director general, recently called attention to two such limitations, saying:

"Safeguards are at present only exerices in installations producing for peaceful purposes;

"Safeguards are at present always exercised at installations which have been identified by the country inviting the control. The concept of states inviting inspectors to roam freely around a whole territory in search of unreported installations is far less likely to be accepted. Under the NPT the parties do not seem to have felt the need for such far reaching measures, nor are they perhaps indispensable in all disarmament agreements in this era of satellite supervision. There are also such possibilities as the clause in the Tatelolco Treaty permitting verification by challenge."[75]

There are other limitations affecting perceptions of the ability of IAEA safeguards to fulfill their nonproliferation function.

Limitations of IAEA safeguards were discussed at length in congressional hearings following Israel's bombing of Iraq's large research reactor in 1981.[76] A few statements from these hearings illustrates the range of views.

Senator Hart at a hearing of the Senate Committee on Foreign Relations in 1981 illustrated the doubts about safeguards held by some Members of Congress. He said:[77]

"But right now, as they stand, those so-called safeguards are not sufficient to make the world community safe—and they do not guard against the spread of nuclear weapons. The safeguards are little more than a facade, and while they legitimize nuclear trade, they place the world in very great danger from the undetected misuse of nuclear weapons."

His solution was not to abandon the Agency, but to undertake a "concerted and sustained effort" by the United States and other countries to rebuild and strengthen the agency so that the world community would have confidence in its safeguards.[78] Under Secretary of State Richard T. Kennedy, gave the Reagan Administration's view as he testified of such limitations at this hearing, where he said:[79]

"It is important at the outset to understand what IAEA safeguards are and what they are not. They are a critical and indispensable component of the worldwide nonproliferation effort, but they are not the totality of that effort.

"IAEA safeguards are principally a detection and warning, not a prevention or reaction mechanism. The IAEA has no capability to physically prevent diversion, and it has limited enforcement authority. It has no authority or capability to search for nuclear activities away from defined locations. And IAEA safeguards do not involve political judgments by the IAEA as to the dependability or sincerity on nonproliferation commitments by other member states."

"There also are clear limitations on how the IAEA can fulfill the specific tasks with which it is entrusted. The Agency does not have the power, for example, to demand plant shutdowns.

"These points have often been cited as criticisms of the Agency, but these general limitations on the Agency's role are simply facts of international relations, understood from the outset by all concerned. The safeguard system entails a unique compromise of sovereign rights by many nations, and it is certainly no surprise that this compromise is subject to specific limitations."

The Agency's principal response to a diversion would be to inform its members and the United Nations. While the Agency could cut off nuclear assistance that it provides, this generally is regarded as a minor sanction. The results of IAEA inspections are kept secret so there is little public information about the quality and reliability of the inspections or of problems encountered. While the effectiveness of inspections depends upon the quality of records kept by the inspected states, the agency has no authority to set and enforce standards for such records and their keeping. In the same vein, infrequent inspections tend more to verify past records than to provide timely warning of a recent diversion. Critics of nuclear power also argue that IAEA safeguards could not reliably detect small diversions of nuclear materials which if accumulated over time might produce enough material to make a nuclear explosive. They also have noted that since the agency in essence is the creature of its members, experience has shown it can be vulnerable to politicization as some blocs of nations try to make it a forum for problems unrelated to atomic energy.

Prospects for controversy.—Any serious effort to establish a scheme for dismantling nuclear warheads and disposing of the recovered nuclear materials is likely to encounter controversy.

Some will favor exploration of this idea to see what can be done with it. For them, even a few small steps could help to build confidence between the superpowers and could show progress toward the nuclear disarmament envisaged by the NPT. Others could oppose it, perhaps even dismiss it out of hand. For them, to depend upon experience with IAEA safeguards in light of their limitations or the limitations of the agency itself, which could be crushed between intransigent superpowers, would be fraught with dangers. In their view, the Agency's safeguards system might readily be fooled, spoofed, or defeated by either superpower, and especially one without free press and with extensive practices of state secrecy. And the political problems of establishing a new international organization or bringing in the IAEA would be formidable. So the future battle lines of controversy can be anticipated, even now before the potentialities and possibilities of the idea have been explored.

Conclusion.—While it would be unrealistic to think that IAEA experience by itself could provide easy verification of comprehensive nuclear arms control or disarmament commitments, it does seem reasonable to expect this experience could be useful for smaller steps including verification of the dismantling of nuclear warheads; taking custody of specified nuclear weapons materials salvaged from dismantled warheads to assure it is used only for peaceful purposes; or verifying that facilities shut down in a freeze on production of nuclear weapons material remain so. Also it seems reasonable to expect that inspection and safeguards patterned after those of the IAEA could be relied upon to sound the alarm if either superpower should do suspicious things with nuclear materials and facilities subject to inspection. However, the agency's experience to date would provide no confidence that a superpower bent upon secret production could not evade IAEA detection and alarm-sounding. Moreover, there is little confidence that effective international action would follow the sounding of such alarm. Indeed, as noted earlier, concern over adequacy of safeguards and of world response to detection of a diversion was one reason advanced by Israel for its preemptive attack on Iraq's large research reactor in 1981. Nonetheless, the Agency and its safeguards appear to have weathered the tumult caused by the Israeli attack. As evidence, the Third NPT review Conference in its consensus final document, in 1985 said that:

". . . the conviction that IAEA safeguards provide assurance that States are complying with their undertakings and assist States in demonstrating this compliance. They thereby promote further confidence among States and help to strengthen their collective security . . . [playing] a key role in preventing proliferation. . . . Unsafeguarded nuclear activities in non-nuclear-weapon States pose serious proliferation dangers".

FOOTNOTES

[1]The conference on the past, present and future significance of the Atoms for Peace proposal was held in Washington on December 7-8, 1983 at the

Center for Strategic and International Studies, Georgetown University in cooperation with the Department of Energy's Los Alamos National Laboratory. The results were published in 1985 by the Westview Press in: Joseph F. Pilat, Robert E. Pendley and Charles K. Ebinger. Atoms for peace. An analysis after thirty years. Boulder and London: Westview Press, 1985, 299 p.

[2] Dr. Schlesinger served as assistant director and then acting director of the Bureau of the Budget, as chairman of the Atomic Energy Commission, as director of the Central Intelligence Agency, as Secretary of Defense and Secretary of Energy.

[3] James R. Schlesinger. Atoms for peace revisited. *In* Pilat et al., op. cit., p. 5.

[4] Ibid., p. 7.

[5] Ibid., p. 14.

[6] Henry Sokolski is a senior aide to Senator Dan Quayle for international security affairs. Previously, he was a public affairs fellow at the Hoover Institution on War, Revolution, and Peace, Stanford University, as well as special assistant to Senator Gordon J. Humphrey for nuclear energy issues.

[7] H. Sokolski. The Arms control connection. *In* Pilot et al., op. cit. p. 38.

[8] W. Sterling Cole. Beating swords into plowshares . . . finally. *In* Pilat et al., op. cit., p. 265.

[9] The Geneva Summit—Address of the President of the United States. Congressional Record, Nov. 21, 1985, p. H10,499.

[10] Ibid., p. H10499.

[11] Text of the Joint statement as reported in the Washington Post, Nov. 22, 1985, p. A15.

[12] For a comprehensive discussion of U.S. and Soviet proposals at Reykjavik, see The Washington Post, February 16, 1987, pp. A1 and A28. (Article by Don Oberdorfer)

[13] The research may be designed for plutonium production, or may be powerful research and testing reactors, or reactors used in nuclear power plant. In theory other sources of neutrons could be used, such as atomic particle accelerators, or the fusion process. However, in practice reactors provide for cheaper and more convenient neutron supplies than other options to date.

[14] The half-life of tritium i.e. the time for half of the atoms present to decay, is 12.33 years.

[15] Cochran, Thomas B. Arkin, William M. and Hoenig, Milton M. Nuclear weapons databook. Vol. I U.S. nuclear forces and capabilities. Cambridge: Ballinger Publishing Company, 1984, p. 27.

[16] With today's nuclear weapons technologies, plutonium is the favored nuclear material because smaller amounts are needed and, apparently, it is suitable for designs to produce the energy needed to trigger a thermonuclear warhead. The Office of Technology Assessment estimated that 5 to 10 kilograms of plutonium or 15 to 30 kilograms of highly enriched uranium would be needed for a first generation design of a nuclear warhead. (Praeger Publishers, 1977, p. 30).

[17] John Taylor, Ralph Balent, John Barton, and Thomas Shea. Converting nuclear weapons to peaceful use. The Bulletin of the Atomic Scientists, February 1985.

[18] Ibid., p. 38.

[19] Stockholm International Peace Research Institute. World armaments and disarmament. SIPRI yearbook 1986. New York: Oxford University Press, 1986, p. 40 for U.S., and p. 48 for U.S.S.R. stockpiles.

[20] Note, temporary storage probably would be necessary until industrial facilities needed for some of the disposal options could be built and put into operation. So it would be judicious to anticipate and provide for temporary storage for many years, even as long as a decade.

[21] For example, the Office of Technology Assessment in its landmark report on nuclear proliferation in 1977 noted the long history of proposals to denature Pu-239 with Pu-240. Of this OTA said: . . . it has long been believed that a high content of Pu-240, because of its high spontaneous fission rate, renders plutonium unsuitable for use in a nuclear weapon. This is not true. A high content of PU-240 is a complication. Given a free choice, a designer would prefer low Pu-240 material, but all plutonium isotopes can be used directly in nuclear explosives. Again, in discussing possible use of low-grade plutonium to make warheads, OTA said: . . . military useful weapons with reliable nuclear yields in the kiloton range can be constructed with reactor-grade plutonium, using low technology. C.F. U.S. Congress. Office of Technology Assessment. Nuclear Proliferation and Safeguards. New York: Praeger Publishers, 1977, p. 201 and p. 142 respectively.

[22] For a detailed discussion of the effect of plutonium quality upon its usefulness for nuclear weapons, c.f. Justin Bloom. Plutonium grade and the risk of nuclear weapons proliferation: a review of thinking on a troublesome subject. CRS Report No. 85-145, August 1985. pp. 15-19 and pp. 52-54.

[23] In theory, these materials might also be fissioned by exposure to neutrons produced by modern nuclear particle accelerators capable of producing a large flux of neutrons. However, the technology for such machines has yet to be developed for industrial scale use.

[24] A thermal reactor is so called because the neutrons that cause fission have been slowed by collision with a light element in the core of the reactor, so that they are in thermal equilibrium with their surroundings (i.e. they are at the same temperature and therefore have a similar kinetic energy, 0.025 eV at room temperature). A 'fast' reactor uses high-energy neutrons (above 0.1 MeV) which have not been slowed down in this way. The word 'fast' does not therefore refer to its capacity to breed plutonium.

[25] Depleted uranium refers to waste uranium from the enrichment process in which the concentration of U-235 atoms may be about 0.2 percent in comparison with 0.7 percent of normal uranium.

[26] Article XII.A.5 of the international statute of the International Atomic Energy establish the Agency's safeguards function. It provides in part that one right of the Agency with respect to any Agency project or other arrangement where the Agency is requested to apply safeguards is to ". . . require deposit with the Agency of any excess of any special fissionable materials recovered or produced as a by-product over what is needed . . . in order to prevent stock-piling of these materials, provided that thereafter at the request of the member or members concerned special fissionable materials so deposited with the Agency shall be returned promptly to the member or members concerned. . . .

[27] International Nuclear Fuel Cycle Evaluation. INFCE summary volume. Vienna, Austria; International Atomic Energy Agency, 1980, p. 46.

[28] Expert Group on International Plutonium Storage. Report to the Director General, 1 November 1982. Vienna: International Atomic Energy Agency, 1982, IAEA-IPS/ES/140 (Rev. 2), p. 27.

[29] Ibid.

[30] Depleted uranium is a waste from enrichment. This uranium contains much less U-235 than normal uranium. Typically, depleted uranium may have 0.2 percent U-235 in comparison with 0.7 percent for normal.

[31] J. deMontmollin, op. cit., points out that most of the enrichment effort is to bring the uranium-235 content of the product material up to about 3 percent, as is evident in his computations in table 1 above.

[32] According to G.A. Technology Inc., which built the (Fort St. Vrain), this 330 MWe plant requires about 220 kilograms of highly enriched uranium a year when operating at design output. The Department of Energy's report on the Nonproliferation Alternative System Assessment Program (NASA) of 1980 indicates a consumption of about 780 kilograms of highly enriched uranium per gigawatt year of electrical generation. (Vol. 9, p. A-56)

[33] NASA, Vol. 9, p. B8.

[34] U.S. Congress. Office of Technology Assessment. Nuclear proliferation and safeguards. New York: Praeger Publishers, 1977, p. 30.

[35] As noted earlier, uranium-238 can be transmuted into plutonium by exposing it to neutrons. While various kinds of machines can produce neutrons, the only large scale source of comparatively cheap neutrons to date is a nuclear reactor. In the future if a controlled fusion process proves to be feasible, it could supply neutrons to transmute U-238 into plutonium. One recent proposal for this purpose came from scientists at DOE's Brookhaven National Laboratory. Cf. Meyer Steinberg, James R. Powell, and Hiroshi Takahashi. Apex nuclear fuel cycle for production of light water reactor fuel and elimination of radioactive waste. Nuclear technology, Sept. 1982, p. 437.

[36] This rather startling view came from a three year comparison of the probable evolution of world energy needs with that of world reserves—not merely with world production—in order to determine possible zones of stress, both in time and geography, that could upset the world energy system. Coal and uranium were seen destined to play a predominant role in the North, in particular after the year 2020, whereas oil would be relegated to a "decidely secondary role." Based upon consumption forecasts of the commission made in 1983, the situation for uranium would become "rapidly critical since the bulk of the proven and additional reserves will have been extracted before 2030 (2015 for proven reserves alone)." While in theory, rapid use of the breeder would extend the life of uranium reserves, in light of slowness in building breeders, their introduction would not modify the date at which the proven reserves of world uranium are expected to be exhausted (around 2015). For a summary, cf. Nuclear Fuel, October 20, 1986, pp. 10-11.

[37] India has several small reprocessing plants of uncertain performance, Argentina is nearing completion of a small plant, and Pakistan would like to complete such a plant.

[38] It is understood that the French reprocessing company, COGEMA, charges from $2,000 to $3,000 annually for each kilogram of plutonium that it stores, and that this rate may be increased for plutonium that had become more radioactive because of the buildup of the radioisotope Americum-241.

[39] This discussion draws heavily on working paper by J. deMontmollin on "Value of Fissile Material from Dismantled Warheads for Reactor Fuel" dated May 27, 1986. Mr. deMontmollin, now retired, was then a senior scientist at the Sandia National Laboratories.

[40] These commercial facilities for plutonium fabrication included those of Exxon Nuclear in Washington; Kerr-McGee in Idaho; NFS in Tennessee; and Numec in Pennsylvania.

[41] Plutonium is far more toxic chemically than uranium and emits alpha particles which are very damaging to tissues if plutonium enters the body. Another factor is neutron and gamma radiation emission from plutonium which is greater than for uranium. The neutrons come from spontaneous fission of plutonium isotopes Pu-238, -240, and -242, and also from interaction of alpha particles from the plutonium with other elements such as oxygen. The gamma radiation mainly results from decay of Americium-241, a daughter product of Pu-241. Since Am-241 has a much longer (433-yr) half-life, than Pu-241, it tends to build up with time, making the plutonium more radioactive. Weapons-grade plutonium contains about 93 percent of Pu-239, as compared to typically 60% Pu-239 for plutonium from light water type power reactors. Consequently, the presence of the other isotopes that produce the neutron and gamma radiations is much less for weapons grade material than for fuel grade plutonium. The rate of Am-241 buildup, with associated gamma radiation, is a constraint on how long separated commercial plutonium can be stored before it must be chemically processed to remove the American if the plutonium is to be fabricated into fuel. This storage-time limit is much longer for weapon material.

[42] John Taylor, Ralph Balent, John Barton and Thomas Shea. Converting nuclear weapons to peaceful use. Bulletin of the Atomic Scientists, Feb. 1985, pp. 35-38.

[43] One hundred and sixty metric tons of plutonium (p. 43) divided by one hundred reactor years equal 1000 kg/Pu reactor year.

[44] Ibid., p. 38.

[45] Frank Von Hippel, David H. Albright and Barbara G1 Levi. Stopping the production of fissile materials for weapons. Scientific American, Sept. 1985, pp. 40-47.

[46] One hundred metric tons of plutonium (P. 43) divided by one hundred reactor years equal 1000 kg-Pu/reactor year.

[47] de Montmollian, op. cit., p. 7.

[48] International Nuclear Fuel Cycle Evaluation. Reprocessing plutonium handling, recycle. Report on working group 4. Vienna: International Atomic Energy Agency, 1980, p. 52.

[49] Nuclear proliferation and civilian nuclear power. Report of the Nonproliferation Alternative Systems Assessment Program. (NASAP) Volume IX: Reactor and fuel cycle description. U.S. Department of Energy, June 1980. Report DOE/EN-0001/9, p. A-37.

[50] This is a worst case assumption for it assumes that the only constraint to a sudden jump in production is the nuclear material, and not the supply of all the parts and services needed to make the missiles or other weapons delivery systems.

[51] IAEA Safeguards, Aims, Limitations and Achievements. Document IAEA/SG/INF.4, 1983, p. 26.

[52] The following discussion draws heavily upon J. M. deMontmollin, Verification of peaceful use of reclaimed warhead material. Working paper, Sandia National Laboratories, 1986.

[53] For this discussion, use of these materials in other countries is considered impractical.

[54] This idea was partially explored in a draft paper from a project of the Electric Power Research Institute in April 1984 by J. Taylor, R. Balent, J. Barton and T. Shea. However funding ran out and the paper was not taken to final form.

[55] J. deMontmollin of the Sandia National Laboratories.

[56] J. deMontmollin. Verification of peaceful use of reclaimed warhead material. Working paper. Sandia National Laboratories, P. 10.

[57] Nuclear policy. Statement by the President October 28, 1986, (Gerald R. Ford). Weekly Compilation of Presidential Documents, Nov. 1, 1976, pp. 1624–1631.

[58] Nuclear power policy. Statement by the President, (Jimmy Carter), April 7, 1977. Weekly Compilation of Presidential Documents, Apr. 11, 1977, pp. 502–507.

[59] Nuclear Nonproliferation Policy. Statement by the President, July 16, 1981 (Ronald Reagan) Weekly Compilation of Presidential Documents, July 20, 1981, pp. 768–770.

[60] The principal departments and agencies within the Administration likely to have views on the disposal idea include the Departments of Defense, Energy, and State; the Arms Control and Disarmament Agency; and the U.S. Nuclear Regulatory Commission. This analysis, however, does not try to predict their specific positions, for that would depend upon when the idea might be proposed and whether negotiations begin during the Reagan or a subsequent administration.

[61] At the moment there is no plutonium production at DOE's Hanford plant because the N-reactor was shut down after the Chernobyl accident of April 1986 and there is strong opposition to restarting it; and only one of the three production reactors at Savannah River is reported to be producing plutonium—with the other two producing tritium needed to maintain the existing stockpile of thermonuclear weapons.

[62] Safeguards encompasses inspection supplemented by containment (i.e. use of barriers to limit access to nuclear materials) and surveillance (i.e. use of cameras, seals, TV monitoring, etc., to show there has been no unauthorized access to safeguarded materials in between inspections.

[63] The Structure and Content of Agreements between the Agency and States Required in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons. Vienna: International Atomic Energy Agency, INFCIRC/153, June 1972, p. 9.

[64] IAEA Safeguards. Glossary. Vienna: International Atomic Energy Agency, 1980, p. 21. The Agency defines 8 kg of plutonium as a significant quantity, also 25 kg of uranium enriched to more than 20 percent U–235 and 75 kg of uranium enriched to less than 20 percent U–235.

[65] H. Blix, International rules to promote the peaceful atom and prevent proliferation. Remarks. Bar Association of the City of New York, May 19, 1983.

[66] "Statement at the First Committee on the United Nations General Assembly," U.N. document A/C.1/38/PV.3 (provisional), October 17, 1983, p. 71.

[67] Nucleonics Week, Feb. 27, 1986, p. 5.

[68] IAEA Safeguards 1980-1985. A Progress Report. Vienna: International Atomic Energy Agency, 1986, p. i.

[69] *IAEA Safeguards: An Introduction*, Vienna, Austria: International Atomic Energy Agency, 1981, p. 12.

[70] INFCIRC/153, op cit. The agency also has another safeguards system for states not party to the NPT. This system focuses upon nuclear installations that the safeguarded state voluntarily puts under IAEA safeguards, whereas the NPT-type system focuses more upon nuclear materials than upon nuclear facilities. The non-NPT safeguards system applies in countries such as Argentina, Brazil, and India.

[71] "Statement to the Thirty-Seventh Session of the United Nations General Assembly," New York, November 18, 1982.

[72] Notable states that have not agreed to "full scope safeguards" include Argentina, Brazil, India, Israel, Pakistan, and South Africa.

[73] Letter from Nunzio J. Palladino, Chairman of the U.S. Nuclear Regulatory Commission to Honorable Clement Zablocki, Chairman of the Committee on Foreign Affairs, November 27, 1982. In U.S. Congress. House. Committee on Foreign Relations, Subcommittees on International Security and Scientific Affairs and on International Economic Policy and Trade. Hearing. *The International Atomic Energy (IAEA): Improving Safeguards*. March 3 and 18, 1982, p. 193.

[74] *A Report on the International Control of Atomic Energy*, prepared for the Secretary of State's Committee on Atomic Energy by a Board of Consultants, David E. Lilienthal, Chairman. (Washington, D.C.: U.S. Government Printing Office, 1946), pp. 4–5.

[75] Source: IAEA.

[76] Notable among these hearings are those by the Senate Committee on Foreign Relations on the Israeli Air Strike, in June 1981 and on IAEA safeguards, in December 1981; and by the House Committee on Foreign Affairs on the Israeli attack on Iraqi nuclear facilities, in June 1981, and on improving IAEA safeguards, in March 1982.

[77] U.S. Congress. Senate. Committee on Foreign Relations. Hearing. IAEA programs of safeguards. December 2, 1981, p. 9.

[78] Ibid., p. 10.

[79] Ibid., p. 11.

THE DEFICIT PROBLEM

Mr. SIMON. Mr. President, the Washington Post has had for 3 days a series of articles dealing with the problem of the deficit, a problem I might add that the Presiding Officer, the Senator from Florida, has done some work on and has been able to get this Senate to adopt some savings in administrative costs that are not huge but they are at least some small steps in the right direction.

I ask, Mr. President, that these three articles written by Steven Mufson be printed in the RECORD.

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

THE MORTGAGE ON AMERICA: FEDERAL BORROWING BINGE LEAVES A PAINFUL, LASTING ECONOMIC LEGACY

(By Steven Mufson)

Every American family today is making payments on an imaginary second home that it will never enter, a home with phantom bricks, phantom nails and phantom floorboards.

Only the mortgage is real. That mortgage is each family's share of the $4 trillion national debt and for a family of four it comes to $65,000. Richard G. Darman, director of the Office of Management and Budget and one of the architects of the nation's fiscal policies over the past decade, says it's "like a mortgage on a second house—without the house."

The accumulated national debt has quadrupled since 1980 following a series of runaway federal budget deficits—the red ink that results when government spends more than it collects. Never before has the nation's debt increased at this pace during peacetime and rarely even in time of war. The debt increase constitutes perhaps the most lasting economic legacy of the past 12 years of government.

As the debt has soared, so has the cost of paying interest to the people, pension funds, foreigners and corporations that have lent money to the federal government to cover its budget shortfalls. Now, with the net interest charge on the debt reaching $200 billion a year, it is consuming more of the nation's income than at any other time in this century. The payments are now the third-biggest item in the federal budget and soon will rival all military spending.

A large number of economists and small but growing group of lawmakers are pointing to the run-up in national debt and the recurring annual federal budget deficits as a calamity of historic proportions that could after the destiny of the United States.

Sen. Warren Rudman (R-N.H.) calls it a blight that "is eating the fabric, the substance, the values of a country which all of us hold dear."

But however large, the debt is a threat that remains vague and impersonal to most Americans, opinion surveys show. One reason, said Rudman, is a "conspiracy of silence" among Republican and Democratic office holders who fear the tax increases and spending cuts that would be required to shrink the debt.

It is remote for another reason—Americans don't have to face directly the costs of the national debt as they do their mortgages or car payments. But the national debt belongs to all Americans and it is diminishing their standard of living and eating up part of their paychecks as surely as any tax.

PERVASIVE, LASTING IMPACT

The $3 trillion in federal debt added during the 1980s helped shape the decade. It expanded the government's spending for a vast military buildup and put more money in the pockets of Americans who saw tax bills shrink and benefits checks rise.

For a little while, during the roaring '80s, Americans traveled more, dressed better, ate better, drove better cars, listened to better tape decks and spent more on health care than they might have otherwise. Compared with previous decades, however, less money was saved and invested in the future.

During the long economic expansion from 1982 through 1989, most people shrugged off the idea of a day of reckoning. Now an entire era of reckoning has arrived. For the next decade, if not the next generation, every government policy decision—from raising taxes and overhauling the health-care system to restoring American cities and helping the former Soviet republics establish stable capitalist democracies—will be taken in the shadow of the national debt.

Because interest charges on the debt have swelled so high, devouring 40 percent of all revenue raised by the federal individual income tax, almost everything the government does seems to be under constant budget pressures.

Every new governmental plan bumps into a wall of deficit spending, while a sagging roof of debt threatens to squash existing programs. Thus, one group of Americans is pitted against another as they squabble over scarce government resources.

Beyond the interest charges, however, the national debt has other, indirect costs.

One such hidden cost is the higher rate of interest that people must pay on their home mortgages and credit cards because the federal government borrows so much.

Second is a delayed cost. For while the Reagan and Bush administrations and lawmakers have boasted of lowering taxes for Americans, they have actually postponed the reckoning. The future taxes that must be raised to carry the cost of past debts and bring the national debt back into line with the size of the economy are burdens that have been passed on to future generations.

A third is the corrosive effect of the debt on the American economy, which, studies show, is smaller today than it would have been had the nation consumed less and invested more in factories, roads, computers, education and other things that make workers more productive. A smaller economy means smaller paychecks for workers and smaller tax revenues for the federal government.

A HIDDEN RATE RISE

On the same day that a home buyer applies for a mortgage or a business owner seeks a loan, the federal government is borrowing $915 million—the amount the Treasury must raise on an average day to finance this year's $333 billion federal deficit.

The home buyer and the business owner must bid against the government in the mar-

ket for loans, a competition that forces interest rates—the cost of loans—higher than they would be otherwise.

This is true even when interest rates are falling, as they are now. Before the 1980s, long-term interest rates—the rates at which most homeowners and corporations borrow money—often sank as low as the inflation rate during slow economic times. But during this recession, with inflation dropping to slightly more than 3 percent a year, long-term rates have stayed more than four percentage points higher than the inflation rate.

Economists and credit market experts estimate that the huge increase in federal borrowing over the past decade has added anywhere from one-half to four percentage points to today's interest rates.

Consider this example:

A hypothetical couple, the Joneses, bought a house in Takoma Park for $130,000 in 1991. With the help of their parents, they scraped together $30,000 as a down payment and borrowed the rest at an interest rate of 9.25 percent. Together they earn $55,500 a year.

Their mortgage payments come to $823.30 a month.

If the interest rate on their home loan had been as low as 8.25 percent, their monthly payments would have been lower by about $71.60 a month—the rough equivalent of a 10 percent surcharge on their federal income tax.

Like many government taxes, the burden of this hidden tax is not shared equally. Instead of taking from the rich to help the poor, this hidden tax confiscates money from people who are most likely to borrow—mostly young families with houses and children—and gives to those who have money to lend—for example, the wealthy, older Americans who are in or nearing retirement, and foreigners who have lent money to the United States.

THE COST OF DELAY

The enormity of the postponed costs can be measured in a simple way by figuring out how much it would cost taxpayers over the next 12 years to reduce the national debt to the same level it was 12 years ago.

The comparison is best made by measuring the national debt as a portion of the entire yearly output of the nation's offices, factories and farms.

To get back to the 1980 debt level, the United States government would have to levy a roughly 45 percent surcharge on each American's federal income tax bill for each of the next 12 years.

What would it cost the hypothetical Joneses, if the government were to raise taxes enough over the next 12 years to bring the nation's debt back down to the same level it was 12 years ago as a portion of economic output?

The couple would have to pay an extra $3,735 or so every year until the year 2004.

Of course, the United States can't start to pay off the national debt until it stops adding to it. Right now, the debt is growing faster than the economy. To narrow the deficit and reduce the national debt, the government could, for example, phase in a personal income tax surcharge starting at 10 percent next year and rising steadily to 80 percent by the year 2004, according to figures extrapolated from government forecasts.

A payback of that magnitude is inconceivable; it won't and perhaps shouldn't happen. But the increase in the national debt represents money that might have been spent another time for other needs. And the interest payments on that extra debt will continue to constrain future government budgets.

"The single most important lesson of elementary economics that this country must learn," said World Bank chief economist Lawrence H. Summers, "is this: Deficit finance is not an alternative to cutting spending or raising taxes—it is a way of postponing the need for these painful steps."

A more accurate 1988 campaign slogan might have been: no new taxes now, but some whopping big taxes, or spending cuts, later.

No other nation in the world could manage its affairs this way, experts say.

"If we were Great Britain or Australia or Denmark, international financial markets would have brought us up short," said Robert Reischauer, director of the Congressional Budget Office, in recent testimony to the House Budget Committee. "If we were Brazil or some lesser-developed country, the IMF [International Monetary Fund] would have sent a mission to visit with this committee and would have read the riot act to you."

In fact, the IMF does an annual review of the U.S. economy and its contents have been among the best-kept secrets in Washington.

In 1991 the review was diplomatic, but its message clear. Just months after the administration and Congress completed a mammoth five-year deficit reduction agreement with politically painful tax increases and spending cuts, the IMF staff "cautioned against being complacent." It said the United States had to slow down the growth of Social Security and Medicare spending and it said that new taxes were "perhaps unavoidable."

THE SHRUNKEN ECONOMY

Until recently, thrift has been hailed as a virtue. From proverbs such as "a penny saved is a penny earned" to sophisticated looks at return on investment, many Americans have studied the benefit of holding back spending today to earn more money tomorrow.

That standard has not been applied to government.

When an individual or a corporation saves money, the money all goes into what economists call the national savings pool. As long as the money saved isn't stuffed into a mattress, it is invested.

The federal government adds to this savings pool if it runs a surplus and drains from the pool if it runs a deficit. When an individual, a corporation or the federal government borrows money, the money all comes out of that same savings pool.

Like any person or business, the U.S. economy as a whole needs to invest if it is going to grow. That might mean that we spend less now on things we consume—and maybe even have a somewhat small economy now—but in later years the investment will pay off and we will all live better.

The size of the deficit would be less important if the federal government were making more investments that would make tomorrow's economy stronger. But the federal government has been spending less and less on investments in the future—less on education and training, less on public health, less on roads and bridges, and less on research and development.

"Whether a budget deficit is good or bad depends entirely on what the borrowing is used for," argues Robert B. Reich, a professor at Harvard University's John F. Kennedy School of Government and an adviser to Democratic candidate Bill Clinton. "It is bad if we borrow from the future to maintain current living standards; good if we borrow to invest, and invest wisely . . ." Reich said the government is borrowing well over than $300 billion a year, but putting only $121 billion into new public investment.

Government investment includes funding research and development, building bridges and educating children. Government consumption includes the paying of farm subsidies, government salaries or Social Security checks.

Federal investment, broadly defined, declined by 30 percent during the 1980s, according to Summers. Highways wore out faster than they were repaired. Training expenditures declined by two-thirds during a decade in which skills became more important and the pay gap between skilled and unskilled workers widened.

INVESTING IN THE PAST

Today the U.S. government spends more on the past than on the future. For the first time this century, the federal government is spending more on the interest on past debts than on investment.

Reduced investment by the federal government would not matter if people and corporations increased their savings by the same amount. But they haven't. Individual and corporate savings actually dropped during the 1980s, from the 9.6 percent rate that prevailed during the 1960s and 1970s to a 6.6 percent rate in 1989-1990.

That combination of lower private saving and bigger federal budget deficits has forced the United States as a whole to borrow from abroad and sell assets to get money for worthwhile investments. But foreign money has covered only half the shortfall in savings available for investment.

Investment in the U.S. economy during the 1980s has failed to keep pace with levels that prevailed during the 1950s, 1960s, or 1970s. A study by the Federal Reserve Bank of New York says federal deficits account for 70 percent of the decline in investment.

An advertisement of an Isuzu light truck inadvertently boils down the decline in American investment to a sound bite. The ad says the vehicle can go off the road or on the road, and that there really is not that much difference these days. The ad shows a car lurching into an enormous pothole. Having invested little in workers, plants or infrastructure, the U.S. consumer is urged to buy a vehicle made in Japan that is rugged enough to navigate the nation's decaying roads.

"That is as damning a statement of what has happened to the country as anything I've seen," Summers said.

If investments are not made today, then the economy will be smaller tomorrow than it would be otherwise—and each citizen will be somewhat poorer relatively. This is another type of hidden cost from the fiscal policies of the 1980s, and the most difficult to repeal.

SUBTLE EROSION

Because this erosion of living standards happens slowly, most Americans don't notice the effect deficits and lower investment levels have on the economy as a whole.

This is why many economists compare the effect of the debt and deficits to the work of termites, eating away unnoticed at the foundation of the country's economic well-being.

Two economists from the Federal Reserve Bank of New York say the effects already are "striking." The economists, M.A. Akhtar and Ethan S. Harris, said the deficits of the 1980s "cost the nation about 7 percent of its capital stock and 2.5 percent to 3.5 percent of its potential output by 1990."

The nation's capital stock is the total of all the machinery, equipment, buildings and business inventories that contribute to today's production or that generate income.

Translating the Federal Reserve study into dollars and cents, its conclusion suggests that today's economy is about $210 billion smaller than it would have been if the federal budget had been more in balance and if investment had not been siphoned into current consumption.

That means the amount of goods and services produced today is about $800 a year less for every American than it would have been with a more conservative budget policy.

If presidents and Congress had done more to control deficits in the 1980s, there would have been a price for that too: taxes would have been higher and federal spending lower. And the economy might have grown more slowly than it did. But economists agree a more balanced growth in the last decade would have meant a healthier economy today.

"Money that the government doesn't spend doesn't disappear. If the government doesn't borrow money from Wall Street, Wall Street doesn't burn it. It lends it to people to invest in plant and equipment," said Reischauer.

With continued big budget deficits, Reischauer said, "our growth rate will be slower and our living standards in the future will be lower."

Slower growth has ripple effects. Benefits paid to future retirees will come out of a smaller economic pot, meaning that benefits promised today will eat up ever larger portions of tax dollars. The same goes for future interest payments on money the government borrows today.

Thus, the longer the government runs deficits, the harder it becomes to stop running them. Moreover, a smaller economy will have trouble meeting the demands of consumers without inflation.

The smaller economy hits the budget from two sides. While the tax base will provide fewer resources, a more impoverished America will be making more demands for social services, unemployment insurance and other assistance.

"The implications for the national economy of the muddling-through approach [to the deficit] . . . still imply an economy that grows only slowly, with ominous implications for the ability to sustain both the commitments made to the retiring baby boomers and a satisfactory standard of living for the working age population in 2020 and beyond," the General Accounting Office said in a recent report.

The deficit's drag on economic growth calls into question the administration's plan for restoring the federal budget to balance by 1998. That scenario assumes that economy over the next four years will match historic patterns since the end of World War II, with annual growth of 3.2 percent to 4 percent.

But many economists believe that more than a decade of low investment has altered the path of economic growth. The IMF in 1991 estimated that the U.S. economy has a potential growth rate of only 2.5 percent a year.

The IMF said that even if the administration won ratification from Congress of its "pro-growth" initiatives, those measures "appeared unlikely to be sufficient to foster a growth potential as high as envisaged by the administration." Slower growth would mean that the administration's toughest measures are not tough enough.

SLIPPING STATURE?

The final hidden cost of the debt legacy cannot be priced in dollars and cents.

In the early 1980s, President Reagan vowed that he would make the United States "stand tall" again in world affairs. It was an appeal to voters longing for respect after the humiliating taking of American hostages by Iranian militants and with memories of Vietnam still fresh.

Some lawmakers have the nagging feeling that the last 12 years have actually diminished the stature of the United States.

"How are we going to feel as we look at what the economic picture of America is at the end of this century," said Sen. Warren Rudman earlier this year, "with a national debt which at that time will equal the gross national product of all the Third World, with deficits at $800 billion to $1 trillion and foreign governments sitting there with their hands folded and dictating to America the terms and conditions on which they will loan us money to support our past profligacy."

To be sure, the United States still is the world's biggest economic power, with an economy twice as big as Japan's, four times as big as Germany's and larger than the whole European Community. Treasury Secretary Nicholas F. Brady said, "It is time to lay aside the ridiculous myth that the United States is somehow on its way to becoming an economic backwater."

But Summers of the World Bank warns: "A great nation cannot stay great on a shoestring. And the world's largest debtor cannot endure as its largest power. The sheriff cannot ride into town high on his saddle when he is in hock to every one he meets."

Rudman says, "If we were at war I have no doubt that people . . . would rise to the height of patriotism . . . And yet, in a time when we are at war economically, when the security of America is being drained drop by drop, we cannot seem to get it together."

[From the Washington Post, Sept. 28, 1992]

THE MORTGAGE ON AMERICA: ANALYSTS SEE CAUSES OF DEBT CRISIS AS BOTH POLITICAL AND ECONOMIC

(By Steven Mufson)

When Ronald Reagan took office in 1981, he pointed to that year's "runaway deficit of nearly $80 billion" as evidence of a federal budget gone awry. Citing a national debt approaching $1 trillion, he asked Congress, "Can we, who man the ship of state, deny that it is somewhat out of control?"

Today, with the annual deficit and accumulated national debt four times as large, that ship has sprung a giant leak. Reagan may have broken with the "tax-and-spend" policies of the past, but he and Congress embarked on a "spend-and-borrow" program that has thrown the nation's accounts out of balance ever since.

How did this happen? Most economists and lawmakers agree that at the heart of the nation's deficit crisis lies a political failure, as much as an economic one. "Blame is equally shared by everyone—including the American people," said Rep. Leon E. Panetta (D-Calif.), chairman of the House Budget Committee.

Reagan swept into the presidency amid a chaotic domestic economy. Spurred in part by soaring oil prices, inflation had hit 13 percent a year, and the Federal Reserve under Chairman Paul A. Volcker had raised interest rates sharply to throttle back the economy and halt inflation.

Reagan promised to eliminate the deficit, cut taxes and sharply increase military spending, a feat that independent presidential candidate John Anderson said could only be done "with mirrors," and that then-presidential candidate George Bush called "voodoo economics."

Reagan won support for his plan by embracing a theory known as "supply-side" economics that was touted by a small group of economists and journalists. The theory suggested that the federal government could cut tax rates and still get more tax revenue because Americans would work harder, earn more and pay more taxes.

With White House support, Congress passed the Economic Recovery Tax Act of 1981, known as the Kemp-Roth bill; it cut personal income tax rates by 25 percent between October 1981 and July 1983. A big tax increase in 1982 offset some of those cuts.

The idea was, in the words of Harvard University economics professor Benjamin Friedman, "a fairy tale." Though Americans do work somewhat harder when their take-home pay is greater, that extra work is "nowhere near as large as would have been necessary to validate the widely publicized claim that cutting personal tax rates across the board. . . would increase tax revenues," Friedman said.

In fact, despite the economy's vigorous 6.5 percent growth rate following the end of the recession in the last three months of 1982, individual income tax receipts actually fell slightly during 1983 because of the tax rate cuts. In 1984, as the economy continued to grow, tax receipts barely crept back to the levels of 1982.

Not everyone who supported the tax cuts believed the "supply side" theory. Reagan's first budget director, David A. Stockman, wanted to roll back welfare programs, and he supported the big tax cut because he believed that the specter of gigantic budget deficits would force Washington "to dismantle its bloated, wasteful and unjust spending enterprises or risk national ruin."

A WATERSHED DEAL

Faced with public demands for lower taxes and big government spending the Reagan administration and Congress struck a Faustian bargain—and adopted both. The result: huge budget deficits.

"It was like taking a bite of the apple," said Robert Glauber, who was undersecretary of the Treasury for finance in the Bush administration until he returned to teach at Harvard this year. "When Reagan cut taxes and Congress didn't meet it by cutting spending and the next day still dawned, that was a watershed."

What happened was reminiscent of the plot of a Maxwell Anderson play called "Both Your Houses." Anderson, a popular playwright during the 1930s, concocted a tale about an idealistic young member of Congress named McLean who gets appointed to the appropriations committee. Appalled by the government spending process, McLean loads the bill down with what he believes to be an absurd number of pork barrel projects in an effort to shame Congress into rejecting the spending bill. Of course, the bill sails through both houses.

As the play ends, the country is worse off than if McLean never came to Washington. And the tragicomic ending lends meaning to the title of the play, which echoes the dying words of Mercutio in Shakespeare's "Romeo and Juliet": "A plague on both your houses!" he said. "They have made worms' meat of me."

"Ronald Reagan provided conservative cover to increase the deficit and Democrats were not that big on reducing the deficit to begin with," says Panetta. And it came just as the Federal Reserve had jacked up interest rates to quash inflation, forcing the federal government to borrow at a very high cost.

The rollback in federal taxes also came just as rapid growth of medical costs and the needs of a growing population of elderly Americans were driving up the cost of Social Security, Medicare and Medicaid. Spending under those programs rose automatically every year without new legislation. To stop that growth, Congress needed to act. Instead Democrats, and many Republicans, defended the programs as ardently as Reagan defended tax cuts and military spending.

The Reagan administration's failure to adopt new taxes while continuing big spending was "a willful act of ignorance and grotesque irresponsibility," Stockman later wrote in an indictment of his own role in fashioning the federal budget.

In 1986, Stockman urged Democratic and Republican politicians to "together . . . tell the American people that a few ideologues made a giant mistake, and that the government the public wants will require greater sacrifices in the future in the form of the new taxes which must be levied."

VOTER RELUCTANCE

But sacrifice is not a popular political platform. Tax rebellions have put politicians on the defensive, from California, where voters in 1978 endorsed a rollback of state taxes in Proposition 13, to Massachusetts, where voters in 1980 backed the property tax-cutting Proposition 2½, to Fairfax and Prince Georges counties, where taxpayers led rebellions in the spring of 1990.

In presidential campaigns, voters have not rewarded candidates who spell out how they plan to cut the federal deficit. As a result, many politicians say that voters, who also went deep into debt in their personal finances, bear responsibility for the big deficit spending of the 1980s.

John Anderson's message of fiscal responsibility helped him gather just 7 percent of the vote in 1980. Walter Mondale, the losing candidate in 1984, told voters that he would combine spending cuts and tax increases to cut the deficit. "Everyone in this race, including Mr. Reagan, is going to raise taxes," Mondale said. "The question is how are they going to be raised."

Mondale underestimated just how much debt the economy, the White House, Congress and the American public could swallow. Four years later, tough measures to combat the deficit still hadn't been taken. While Democratic nominee Michael Dukakis stressed that more debt was accumulated under eight years of the Reagan presidency than during the first 200 hundred years of American independence, George Bush rode to victory promising "no new taxes."

HINT OF NEW TAXES

After the election, Bush's budget director, Richard G. Darman, hinted in congressional testimony that new taxes might be needed. Darman and other Bush advisers believed that if Bush waited until the fall of 1990, he could sign on to new taxes without suffering the wrath of voters. Darman advocated a budget summit of White House officials and congressional leaders at which new taxes would wind up in a deal by "immaculate conception" without Bush taking political blame.

But Bush's pledge made negotiations to eliminate the budget deficit virtually impossible. For months during 1990, Democrats waited for Bush to renounce his pledge before starting serious talks.

"There were a lot of scars left from the Mondale campaign," said Panetta, the House Budget Committee chairman. "Reagan made taxes a dirty word, though he had raised some taxes. Politically, the Republican Party turned it into a real hammer in race after race and members of Congress became sensitive to raising taxes without the president's cover."

Republicans also wanted to force Democrats to back away from supporting costly Medicare and Medicaid programs, in the past powerful weapons in Democratic campaigns.

Once Democratic leaders and the White House sat down seriously, they confronted the consequences of years of delay. Interest payments on the national debt had soared, meaning deeper cuts in programs were needed to reduce the deficit.

An initial bargain endorsed by the White House and Democratic congressional leaders failed to collect a majority of votes from lawmakers of either party, and marked a split in the Republican Party that still dogs the president. Right-wing Republicans have never forgiven Bush or Darman for what they see as a betrayal on taxes. As the bickering dragged on, the government briefly ran out of cash and shut down, and Bush's public approval ratings plunged to new lows.

Earlier in 1990, Darman had said a budget summit could produce a "big fix" for the deficit. And in the end, lawmakers came up with ways to cut nearly $500 billion from the next five years' projected deficits.

But that still left a government facing enormous deficits. Even as lawmakers defended the deal, they knew the deficit would set new records.

An element of despair set in. A joke told during the 1990 budget negotiations between congressional leaders and the Bush administration went like this:

President Bush, then-secretary of state James A. Baker and Federal Reserve Chairman Alan Greenspan are playing a round of golf when there is suddenly a clap of thunder, a bolt of lightning and God appears at the ninth hole. He offers to answer any questions they have.

Baker asks, "When will there be lasting peace in the Middle East?" God replies, "Not in your lifetime."

Greenspan asks, "When will inflation hit zero percent?" God replies, "Not in your lifetime."

Bush asks, "When will the Federal budget be balanced?" God replies, "Not in My lifetime."

TWO-SIDED STALEMATE

The big budget deal in 1990 failed to remove either the political or economic barriers to solving the deficit problem.

The annual budget deficit is still pushing up the national debt at a mind-boggling pace; $1 billion a day, $41.7 million an hour, $11,574 a second. The Government borrows more money every year than is saved by all American households.

While the national debt held by the public grew by about $1.3 trillion under Reagan, it has grown by more than $1 trillion under Bush. The problem remains structural: The Federal Government collects $18.90 in tax revenue for every $100 in economic output, but it spends $22.90, according to the General Accounting Office, Congress's auditors. Spending is slightly higher than historical levels and taxes are about the same.

The political stalemate remains too.

The "no new taxes" pledge still haunts the Bush administration. Conservative Republicans and voters blame the President for breaking the pledge, though few people could name the taxes that were raised under the agreement. (It added 10 cents a gallon to the price of gasoline, imposed luxury taxes on boats and jewelry, raised the Medicare tax for people earning between $55,500 and $120,000 a year and raised the top marginal tax rate to 31 percent from 28 percent on top income earners.)

In 1990, Panetta said that for years "we thought somehow we could have it all—we could cut taxes, raise defense spending, raise benefits—and the bill would never come due." At the time, he and other lawmakers thought the budget deal marked the end of that era of illusion.

But in the 1992 campaign, illusions are back.

"I think I have finally figured it out after 11 years," Rudman said earlier this year. "And that is that we are afraid to level with the American people because they have been lied to for so long. Maybe 'lie' is a strong word. . . . Maybe we have simply not told them the whole truth."

"This is not a question of the real economy," said a European director of the International Monetary Fund. "This is a question of the political system: that no one is able to explain to people that they should raise taxers."

Though the nation's fiscal imbalance has rarely reached such a critical point, the failure of lawmakers to impose taxes in an attempt to curry favor with voters is a problem as old as the republic.

Slightly more than 200 years ago, as the Constitutional Convention approached and as populist state governments were wildly printing money and repudiating debts, Alexander Hamilton appealed for Americans to recognize the need for taxes. Two centuries later, his plea retains its note of urgency.

"How is it possible that a government half supplied . . . can provide for the security, advance the prosperity or support the reputation of the commonwealth?" said Hamilton, who became the first secretary of the Treasury. "How can it ever possess either energy or stability, dignity or credit, confidence at home or respectability abroad? How can its administration be anything else than a succession of expedients, temporizing, impotent, disgraceful?"

[From the Washington Post, Sept. 28, 1992]

ECONOMISTS ARGUE OVER SIZE OF THE BUDGET DEFICIT PROBLEM

(By Steven Mufson)

A few economists believe that big budget deficits do not matter, or that their dangers are overblown. They range from economists on the left, such as Robert Heilbroner of the New School of Social Research in New York, who want the government to keep up social spending and insurance programs, to Paul Craig Roberts, who would have the government institute new tax cuts to stimulate the economy.

Left and right meet, however, when they try to explain, as Heilbroner once put it, that "to worry about the present size of the debt is to magnify a mouse into a monster. It is simply a false alarm."

Jeff Faux, president of the liberal Economic Policy Institute, argues that if rapid deficit reduction is made the highest priority, the resulting budget cuts and tax increases would inevitably cause higher unemployment for some period of time.

"They say we need to sacrifice, but for how long? Five years? Ten years?" Faux asked. Noting that advocates of rapid deficit reduction frequently speak about its impact on the next generation, Faux argued that certain budget cuts—in education and job training, for example—might be even worse for the next generation.

"You don't help your children by denying them the money to go to school so they can pay less taxes in 10 years," Faux said.

Jude Wanniski, one of the founding fathers of supply-side economics, says tax cuts in the face of the budget deficit are a risk government should be willing to take to create economic growth. "Either the risks are taken by the government, or they're taken by the people," Wanniski said.

Jeff Bell, another early supply-sider and the author of "Populism and Elitism," said elites tend to worry more about the deficit than do average voters.

Those who minimize the dangers of the debt make their cases in several ways:

Argument: The national debt—113.9 percent of gross domestic product, 117 percent of gross national product—was bigger than the entire annual output of the U.S. economy after World War II; now it's only 53 percent of the economy's output.

Rebuttal: Most mainstream economists reply that the national debt is only 51.3 percent of GDP if one excludes the money owed to the Social Security trust fund. Including that money, the federal government's debt comes to nearly 68 percent of GDP. While the money owed to the Social Security trust fund is usually not included in debt owed "to the public," a huge portion of the public is expecting to get that money in retirement benefits a few years from now. It also is an obligation of the government, even though default carries more political than economic repercussions.

In addition, while it is true that the national debt was bigger when measured against the size of the economy at the end of World War II, the interest cost on the national debt has never been bigger. At the end of World War II, the United States spent 1.9 percent of GDP on interest, and now it spends 3.4 percent. That difference translates into an extra $90 billion in spending in 1992.

In the wake of the Great Depression, the government borrowed money at cheap rates. Today the government borrows money at rates two to four times as high as it did during World War II. Now interest payments consume a gigantic portion of the current budget, squeezing other areas of spending.

Moreover, much of the money borrowed during World War II went into expanding the industrial capacity of the country. Today, much of the government is a checkcashing operation, cashing checks paid in taxes and issuing checks to pay individuals' health, retirement or veterans' benefits. Most of this won't help the economy grow any faster in the future.

Finally, the needs of the country were different then. At that time, there was no need to start saving to pay for a huge growth in the number of retirees.

Argument: We can grow out of the deficit.

Rebuttal: Economists have a simple rule of thumb. The country's debt should not grow faster than the economy grows. That way, the portion of national income used to pay the interest on debt does not grow. The only exceptions should be wartime or times of economic crisis.

But the national debt, fueled by record annual budget deficits, is growing faster than the economy.

Without adjusting for inflation, the economy has been growing an average of 4.6 percent a year during the Bush administration while the national debt has grown at a rate of 14.2 percent a year. Even without counting the cost of savings and loan bailout, the national debt has been growing at a rate of more than 12.5 percent a year.

At the current rate, the national debt will hit 78.3 percent of GDP by 1997 and more than 89 percent by 2002, according to forecasts by the Congressional Budget Office.

Argument: We owe the money to ourselves.

Rebuttal: We owe *most* of it to ourselves. If we didn't, the economy would have screeched to a halt long ago. But we do owe 15 percent to 20 percent to foreigners and that includes much of the debt that pays the highest interest rates. That means tens of billions of dollars a year, or about one dollar out of every $100 in output, leaves the country altogether. This drains money needed for saving and investment.

Borrowing money from abroad hasn't been sufficient to make up for the savings and investment dollars the federal government is sucking out of the economy. As a result, private business is selling off assets to foreigners who have enough money to make needed investments here.

In other words, federal government borrowing has forced the United States to sell off chunks of the economy to foreigners. The United States has gone from being the largest creditor nation to largest debtor. That is like saying that the largest business in the world has sold off more than 10 percent of its shares to foreign investors while continuing to pay out big dividends to shareholders.

Interest payments that go to American citizens and institutions and stay inside the U.S. economy are less worrisome than those that go to foreigners.

But there are important social consequences to the growing debt we owe to ourselves. It both redistributes income toward wealthy individuals and institutions and places more of the burden of investment, education, health and other programs on private individuals while the government's spending is increasingly devoted to paying interest.

Most of the national debt is owned by big banks, financial institutions and wealthy individuals. The interest payments on the debt therefore effectively redistribute money from ordinary working people to the top income earners and big financial centers in America.

Argument: We are never going to pay it back. We'll just roll the debt over.

Rebuttal: In the early 1800s, the United States came close to paying off its debt. No one expects that to happen again.

Still, the debts incurred already represent opportunities lost to do other things with the money spent. And to the extent that federal spending is squeezed in the future to keep the national debt from growing, past debts represent future opportunities squandered.

Nothing shows that more than the current economic slowdown. The United States continues to roll over its debt, but to keep it from getting out of hand it has been impossible to cut taxes or boost spending to stimulate the sluggish economy.

So how big should the deficit be?

Most economists say that the deficit ideally should be much smaller or that the federal government should even be running a small surplus in order to save up money needed to pay retirement benefits when the baby-boom generation starts to retire early in the next century.

"I think we ought to be aiming for a small surplus in the budget, around 1 percent of GNP," said Charles Schultze, who was chairman of President Jimmy Carter's Council of Economic Advisers. He cautions that it would be insanity to get to that target in one swoop, but believes the federal budget should move gradually in that direction.

Murray Weidenbaum, President Reagan's first Council of Economic Advisers chairman, said the appropriate level is "lower than it is now." He said that "in an ideal world we ought to run a surplus because we are a low-saving society." In other words, because private individuals and corporations do not save and invest as much as they should, the federal government should compensate.

But Weidenbaum cautioned that "talking about a zero deficit is like talking about 4 percent unemployment. It is so far off in the future that it deflects you from current reality."

He said that if the deficit could be reduced to $50 billion—a little less than 1 percent of GNP—"it would no longer be a pressing problem in a $6 trillion economy."

Michael J. Boskin, chairman of Bush's Council of Economic Advisers, said that "ideally the government should be running slight budget surpluses" because of the country's low savings rate. But he adds, "We have such a long way to go to get there, we just have to start to move in that direction."

[From the Washington Post, September 28, 1992]

U.S. PREFERS TO PRESCRIBE, RATHER THAN TAKE, TOUGH ECONOMIC MEDICINE

(By Steven Mufson)

When it comes to the ailing Russian economy or Third World nations, the United States is quick to back International Monetary Fund prescriptions.

But when it comes to taking a dose of the same medicine, the United States is reluctant.

The language of the 1991 IMF report on the U.S. economy is diplomatic, but its message is clear.

The IMF takes a dim view of mammoth U.S. budget deficits, which, it says, are slowing down the economy's long-term potential for growth.

The fund recommends sterner discipline on spending and increases in taxes. And it says that the Bush administration's oft-touted "pro-growth initiatives" won't substitute for tough fiscal measures.

The IMF's updated 1992 report contains a similar message and discusses some possible solutions, including a 5 percent value-added tax.

The reports are generally kept secret, but a copy of last year's report still sheds light on long-running fiscal policy debates.

Last year's report was written just months after Congress and the White House had completed a five-year agreement designed to reduce projected deficits by $500 billion.

The IMF, however, "cautioned against being complacent." Even after subtracting one-time hits like the recession and the savings and loan industry cleanup, the IMF estimated that the federal government still had a deficit equal to about 3 percent of what the U.S. economy produces. That outstrips exceeds IMF standards for a major industrial nation like the United States and exceeds what Bush administration official estimates concluded at the time.

The Bush administration told the IMF that it would take more steps to rein in the deficit after fiscal 1993. The next fiscal year starts Oct. 1, so the delay would put off action until after the 1992 presidential election.

But the IMF warned that "there was a danger that a delay in action could well be followed by further delays, with increasingly important long-term consequences."

The fund and the Bush administration differed on taxes. The IMF staff said that while spending restraint was preferable, new taxes were "perhaps unavoidable." The IMF cited "a number of possible measures." These in-

cluded closing tax loopholes, ending tax subsidies and raising gasoline or other energy taxes.

But just as the Bush administration has ducked the tax issue with the American electorate, it evaded it with the IMF. The U.S. delegation "appeared reluctant to get into a detailed discussion at this time on these issues which they felt could be explored with greater relevance at a somewhat later stage," the IMF report said.

During the election campaign, top administration officials such as Treasury Secretary Nicholas F. Brady and Budget Director Richard G. Darman have been even more adamant in rejecting tax increases to cut the deficit.

The American obstinacy is thick with irony. This year the IMF and major economic powers, including the United States, are threatening to cut off international loans and aid to countries such as Poland and Russia for running excessive government budget deficits.

The IMF is demanding that Poland and Russia reduce their deficits to 5 percent of economic output or less. The U.S. deficit forecast for the current fiscal year is 5.7 percent of economic output. The U.S. delegation's failure to cooperate is a luxury associated with the size of the United States; it is big enough to write the rules of the IMF and to violate them at the same time—at least for a while.

But the IMF warned that the result would be a smaller economy and slower growth. The Bush administration told the IMF that it believed the U.S. economy could grow at about 3 percent a year. Darman, director of the Office of Management and Budget, recently repeated that claim, saying the U.S. economy's growth path was around 3.2 percent.

But the IMF said the potential growth of the economy has slowed to about 2.5 percent a year, largely because low national savings rates and big budget deficits were cutting into investment.

"That the adverse consequences of low U.S. national saving will not be felt strongly right away because of the existing economic slack should not obscure the advantage of prompt action," the fund said.

[From the Washington Post, Sept. 29, 1992]

THE MORTGAGE ON AMERICA: POLITICIANS WAVERING ON DEBT CRISIS ISSUE

(By Steven Mufson)

Of all the federal government's commitments, none is more sacred than its promise to assist the country's elderly citizens with payments from the Social Security retirement fund.

Not even this pledge, however, can escape the twin realities of a federal budget far out of balance and a growing population of retirees whose claims on scarce tax dollars will collide with the government's other spending priorities.

Michael J. Boskin, chairman of President Bush's Council of Economic Advisers, warned in 1986 that "a confrontation between workers and retirees will arise [involving trillions of dollars] that will create the greatest polarization along economic lines in our society since the Civil War."

Six years later, the costs of a decade of escalating budget deficits and federal debt are even more clear. The deep spending cuts and new taxes needed to close the budget gap threaten to pit the old against the young, the healthy against the sick, cities against suburbs and rich against poor.

In the heat of the election campaign, neither President Bush nor Gov. Bill Clinton has gone very far in talking about the choices that loom ahead.

In Ross Perot's words, the national debt "is like a crazy aunt we keep down in the basement. All the neighbors know she's there, but nobody wants to talk about her."

While tax increases may be "unavoidable" as remedies to the nation's debt and deficit problems, according to the International Monetary Fund, Bush has dangled the prospect of new tax reduction, including an across-the-board cut and tax breaks for small businesses, real estate developers, first-time home buyers, savers and investors.

And while "entitlement" programs—Medicare, Medicaid, Social Security, veterans payments, student loans and farm price supports—make up the lion's share of government spending, Clinton has mentioned practically no cuts in those programs. Bush has talked about a target to limit growth of those programs, but he has not spelled out how he plans to hit that target.

At the other extreme stands Perot who proposes to slash government spending or increase taxes by $754 billion over the next five years, a staggering sum that could throw the already weak economy into a much deeper crisis, according to economists.

"I think it would be bad policy to do austerity in full force without paying attention to the rest of the economy," said James Tobin, a Nobel Prize-winning economist at Yale University. "There are times for austerity and this is not one of them."

A time for budget austerity will come, however, said Tobin. Once the economy recovers, Tobin would favor a budget deficit of about $150 billion (excluding Social Security funding), less than half current deficit levels.

CLEAR CHOICES

While the choices for making these cuts may be politically explosive, they are not mysterious. Every year, the Congressional Budget Office publishes a widely ignored book of options about how to reduce the deficit. This year it ran to 350 pages.

The biggest deficit reduction options on lists such as the CBO's include:

A higher gasoline tax.

Americans pay less than a third as much as Europeans do for gasoline. Every penny increase in the gasoline tax would raise $1 billion. A 50-cent increase would raise $50 billion a year and cut down on energy consumption, while still leaving the United States with the cheapest gasoline in the world. Low-income commuters would suffer the most. The average motorist would pay about $300 a year more in gasoline taxes.

Perot would increase the tax by 10 cents in each of the next five years. Neither Bush nor Clinton favor future gasoline tax increases.

Slow down the rapid increase in "entitlement spending."

These programs do not require any new annual appropriation by Congress, and they grow automatically as more people qualify for benefits by meeting the requirements of age or income levels.

The combination of retirement payments, unemployment insurance, food stamps, Medicare and Medicaid—plus interest payments on the national debt, which also grow automatically—will account for 58 percent of all federal spending next year.

When Bush and others talk about cutting entitlements, though, most often they are using a euphemism for reductions in health care spending for the elderly and the poor.

These are the fastest-growing parts of the budget. Medicare and Medicaid spending are projects to grow from $198 billion this year to $349 billion in 1997 as the populations of the elderly and needy expand. Squeezing payments to doctors and hospitals won't be enough. Most proposals for cutting government spending mean requiring that poor and elderly recipients pay more for their own health care.

KEEPING GROWTH DOWN

Bush says he wants to keep the growth of Medicare spending down to the rate of increase in population plus inflation. That would require $145.8 billion in spending cuts over five years. But in his 1993 budget, Bush proposed cuts totaling only one-tenth that much. Clinton said he plans unspecified cost controls. Perot would make the elderly pay 35 percent of the cost of their benefits and extend the existing 1.45 percent tax to all income. Currently the tax only applies to the first $130,200 in income.

Tax a bigger portion of Social Security benefits.

Senior citizens who make more than $25,000 a year as individuals or $32,000 a year as couples pay taxes on half of their Social Security benefits. Raising that portion to 85 percent of benefits would affect 18 percent of retirees and raise about $30 billion over five years. Such treatment would be similar to the taxation of private pensions.

Impose a value-added tax, or VAT.

This is a form of sales tax used in more than 50 countries that taxes the total value of sales of all businesses. It allows firms to claim a credit for taxes paid on their purchases of goods so that they are not taxed twice. If it excluded food, housing and medical care, a 5 percent VAT would raise about $70 billion a year. It would discourage consumption and boost investment, which economists say would help the economy. But it is a regressive tax that places a heavy burden on the poor.

Eliminate waste and political "pork barrel" spending.

This is the most talked-about and most elusive of the measures to reduce the budget.

It is elusive because the entire domestic discretionary spending budget—including the more than a dozen government departments and agencies usually accused of wasteful pork barrel spending—make up just 15 percent of all government spending.

A 10 percent across-the-board cut would save $22.6 billion a year, but it would hurt programs ranging from space exploration to Head Start, from federal law enforcement to tax collection, from the National Park Service to aid to the District of Columbia.

Cut military spending.

Bush plans a gradual decrease in military spending. Clinton would cut an additional 5 percent. Perot would fall close to Clinton's target. He wants $40 billion less military spending than Bush does over the next five years.

So far, the numbers offered by the main candidates don't add up.

Bush's promise of new tax cuts would be costly: Even a 1 percentage point cut in personal income tax rates would reduce government revenue by about $25 billion a year. In addition, Bush's proposal to permit people to earmark part of their tax dollars to slow the growth of the national debt could cost as much as $50 billion a year. And he would need more than $30 billion a year to pay for his health plan, according to administration estimates.

To do these things while keeping the deficit from growing would take $400 billion to $770 billion in spending cuts over the next five years. But Bush has proposed setting a target that would require no more than $290 billion in spending cuts over five years to

cap the growth of Medicare, Medicaid and other entitlement programs.

To protect Social Security, honor interest due on the national debt and protect his military spending proposals, Bush would have to trim nearly 25 percent of all other federal spending to cover his new tax cuts and reduce the deficit, according to Office of Management and Budget figures.

Clinton promises ambitious new federal spending programs with a cost of $219 billion over four years—not including the unspecified tab for his universal health insurance plan. While he describes in detail how he would pay for the programs other than health, he does not do much else to trim the federal budget deficit beyond where it would be without any change in government policy.

CLINTON'S BLUEPRINT

Clinton says that the government could save billions by operating more efficiently and collect much more in taxes by a more aggressive enforcement policy toward foreign corporations. But many experts say he exaggerates the potential revenue gains.

Harvard University economics professor Martin Feldstein, a former Reagan administration economic adviser, said Clinton's plans would make the budget deficit $26 billion bigger than it would be otherwise by 1996.

The problem for the candidates—and the electorate—boils down to choices. The failure to make those choices is a choice by default. And that could lead to other, still tougher issues involving deficits and debt.

One strategy for easing the debt burden is for policy makers to tolerate higher levels of inflation. That would cause the purchasing power of the dollar to shrink and that would make it cheaper for future governments to repay old debts.

But inflation would damage the economy in many ways, straining the banking system, hurting workers whose wages can not keep up with rising prices and punishing people who had been thrifty and had saved money in the past.

A second issue is whether to bite into the Social Security trust fund, a huge government account that takes in payroll taxes from employers and employees and pays out benefits to Social Security recipients. Right now, the fund shows a surplus—it has more money than it currently needs. That surplus will be needed when the baby-boom generation hits retirement age in about 20 years.

But the surplus is being spent to help the government handle today's debts.

MONEY BEING LENT

To keep up the appearance that Social Security is an insurance fund, the bookkeepers at the Office of Management and Budget say that the money paid into the fund is being "lent" to the federal government. And about $1 trillion of the federal government's $4 trillion accumulated debt is owed to Social Security and other trust funds. But there are no assets—no stock or bond certificates—in the Social Security trust fund; only the government's commitment to make good on the benefits it has promised future retirees.

Though defaulting on national debt owed to the public would cause economic chaos worldwide, the federal government can essentially "default" on part of the debt owed to the Social Security trust fund by cutting back on benefits paid to future retirees. It can raise the retirement age, as it did under the 1983 agreement, or it can slow down the cost-of-living adjustments to benefits.

One senior Bush administration official views this as inevitable. Without such changes, Social Security payments will grow from $275 billion this year to $500 billion by the turn of the century.

"When the baby-boom generation retires . . . hard-pressed workers will certainly resist tax increases of 5, 10 or 15 percentage points" that will be needed to pay for previously promised retirement benefits, Boskin, Bush's economic adviser, wrote in 1986. "The larger elderly population, meanwhile, will push for these tax increases to finance not only existing benefits, but also new ones."

The way the trust fund is being managed dramatizes critics' accusations that it is no trust fund at all but a spending program in which working people support the elderly now—and count on receiving similar support when they retire. Reducing future benefits would undermine support for the Social Security tax.

A third issue is the relentless pressure of rising health care costs. So far the candidates talk mostly of expanding health programs to cover the 40 million or so Americans who do not have insurance. But if debt and deficit control were the top priority, government would have to be reducing coverage, not expanding it.

Many political leaders doubt that the country can swallow the measures needed to cure the budget imbalance, especially when political leaders continue to offer magic fixes such as exaggerated promises of growth or the illusion of eliminating waste, as Perot initially put it, "without breaking a sweat."

"Many complain about wasteful projects and foreign aid," said Sen. Warren B. Rudman (R-N.H.). "But if we eliminate all domestic discretionary spending—not the wasteful parts, but all of it—and all foreign aid in this fiscal year, we would still be left with a deficit of over $150 billion, an amount considered inconceivable a short 10 years ago when I came to the Senate."

TWO CONTRARY NOTIONS

The difficulty of coming to grips with the nation's deficits force Americans to confront two contrary notions of government: government as the problem and as the problem-solver.

According to the broad vision of President Reagan, government was the problem. Tax reduction and limiting the role of government would invigorate the private sector and a growing economy would help all, he said. Bush during his campaign has echoed that theme, though neither he nor Reagan always lived up to it. Now Clinton is putting forward a vision of a more activist government.

No matter which one takes the country forward, their agenda will be shaped by the constraints of the nation's annual deficits and a legacy of debt.

[From the Washington Post, Sept. 29, 1992]

THE MORTGAGE ON AMERICA: AS AN ISSUE, THE DEFICIT DOESN'T PLAY IN PEORIA, POLITICAL PROS WARN

(By E.J. Dionne, Jr.)

There is a very good reason President Bush and Bill Clinton have not made deficit reduction the central issue of their campaigns: To do so, say poll takers and political strategists, would be something close to political suicide.

It's not that voters dismiss the deficit as unimportant. It's that they see deficit reduction as being far less vital to them personally than getting the economy to grow and to create more jobs. For many voters, the link between deficit reduction and job growth is obscure or nonexistent.

Voters, the public opinion specialists say, also are wary of candidates who call for "sacrifice," since they strongly suspect the sacrifice will be asked of them, but not of everybody else. And after a long recession, many voters—especially those of modest means—think they have already been asked to sacrifice too much.

Finally, the electorate is so skeptical about the workings of government that many in its ranks think that much of what the government does is wasteful. In five Washington Post/ABC News polls conducted in 1990 and 1991, voters said that an average of 46 cents of every dollar the federal government collects in taxes is wasted.

Therefore, a great many voters do not believe politicians who say that deficit reduction would require either cutting popular programs or raising taxes.

The result, said Karlyn Keene, a resident fellow and public opinion specialist at the American Enterprise Institute, is that the Republicans before 1980 and the Democrats since then have always failed when they made the deficit a central theme of their campaigns.

"The Republicans beat the Democrats over the head with it for years and it didn't work," she said. "The Democrats then beat the Republicans over the head with it, and that didn't work either."

It should therefore not be surprising, she said, that neither former Massachusetts senator Paul Tsongas in the Democratic primaries nor Ross Perot, at least in the first phase of his campaign, had much success with the deficit issue.

"People can't relate to it," Keene said of the deficit. "It's too big. It doesn't touch their lives personally. It's one of those big numbers and it's hard to wrap your arms around it. And nobody knows how to deal with it."

Linda DiVall, a Republican poll taker, said she regularly advises the candidates she works for to stay away from talking about entitlement cuts to balance the budget. "I say to Republican candidates: 'As a challenger, you cannot afford to deal with the whole question of entitlements. . . . the Democrats will eat your lunch if you try that early on."

Mark Mellman, a Democratic poll taker, said that if a candidate told him that he wanted to call for big tax increases to cut the deficit, he would reply: "You ought to do what you believe is important, but you're going to lose."

"There's a fundamental 'dissensus' in this country on how to achieve deficit reduction, and no politician, whether running for president, senator or Congress, wants to walk into the middle of that kind of dissensus." Mellman said. "Given a choice between running on an 80-20 issue or a 50-50 issue, people will campaign on an 80-20 issue every time."

Both DiVall and Mellman believe it is possible to create a consensus for deficit reduction, but only after a politician is elected and develops the trust of the electorate. "Until somebody forges a consensus on this—and it takes presidential leadership to forge a consensus on deficit reduction—it's not going to happen," Mellman said.

Robert Shapiro, an economic adviser to Clinton, believes deficit reduction should be an important presidential goal, but argues that candidates are quite rational not to make the deficit the highlight of their economic message.

"A candidate who just says, 'I'll raise your taxes and cut your benefits,' is saying, 'You may be in tough shape but that's not the

most important thing to me, something else is the most important thing to me,'" Shapiro said. "You have to make clear to people that what you're worried about is that they're in tough shape."

The polls suggest that this analysis is correct. A New York Times-CBS News Poll published last week, for example, asked voters: "What one issue do you wish the candidates would talk about most?" The survey found that 46 percent named the economy or unemployment, 8 percent listed health care, and 7 percent listed education. The deficit came next at just 6 percent.

Still, the deficit is an important issue to political elites—the people who appear on television shows and write op-ed columns—and also to Ross Perot. So candidates cannot deal with it lightly.

Thus, Gene Sperling, a Clinton economic adviser, may have come up with the most politically savvy approach yesterday after meeting with Perot and his supporters in Dallas.

"We showed them how committed we are," Sperling said, "to getting the deficit down without hurting economic growth." Just about nobody disagrees with that.

Mr. SIMON. Mr. President, I rise to enter these articles in the RECORD because, Mr. President, in 2 days the next fiscal year begins. In the next fiscal year, you will be interested, we will have these expenditures: For defense, this is in outlays, $291 billion; for Social Security, $300 billion; and gross interest, $307 billion. This next fiscal year for the first time in the Nation's history interest will be the No. 1 expenditure of the Federal Government.

It is a milestone, unfortunately an unhappy milestone, in the history of this country.

Let me just comment briefly on what Mr. Mufson says in two of the three articles. He quotes Lawrence H. Summers, the World Bank chief economist, saying:

> The single most important lesson in elementary economics that this country must learn is this: Deficit finance in not an alternative to cutting spending or raising taxes—it is a way of postponing the need for these painful steps.

"A more accurate 1988 campaign"—this is no longer quoting him but quoting the article itself of Mr. Mufson—"slogan might have been: No new taxes now, but some whopping big taxes, or spending cuts, later."

Then also, Mr. Mufson says:

> Today the U.S. Government spends more on the past than on the future. For the first time this century, the Federal Government is spending more on the interest on past debts than on investment.

I might add that is using net interest rather than gross interest. I think the figure that should be used is gross interest, as our colleague from South Carolina, Senator HOLLINGS, has pointed out several times. For net interest, we subtract the interest earned by the Social Security trust funds, and the other trust funds. The real interest expenditure by the Federal Government is the gross interest expenditure.

He also says:

> Because this erosion of living standards happens slowly, most Americans don't notice the effect deficits and lower investment levels have on the economy as a whole.
>
> That is why many economists compare the effect of the debt and deficit to the work of termites, eating away unnoticed at the foundation of the country's economic well-being.

Later he quotes Robert Reischauer, head of the Congressional Budget Office, "Money that the Government does not spend does not disappear. If the Government does not borrow money from Wall Street, Wall Street does not burn it. It lends it to people to invest in plant and equipment," said Reischauer. "With continued big budget deficits," Reischauer said, "our gross rate will be slower and our living standard in the future will be lower."

The New York Federal Reserve study shows very clearly that the deficits of the past decade have eroded substantially our gross national product. It quotes our colleague, Senator WARREN RUDMAN, as saying:

> If we were at war, have no doubt that people would rise to the height of patriotism, and yet in a time when we are at war economically, when the security of America is being drained drop by drop, we cannot seem to get it together.

I think that is the reality, and it is the reason frankly I think we have to have a balanced budget amendment because we clearly do not have the discipline here to handle things ourselves.

Then in the second article, Mr. Mufson quotes our colleague in the House, Congressman LEON PANETTA. He says, "Blame is equally shared by everyone—including the American people."

Let me add as a former journalist, I think blame is also shared by the media for not pointing out what is happening. The General Accounting Office study for example that came out in June with its dramatic forecasts hardly made a newspaper in the country.

I recognize some of those statistics look dull. But we need to reappraise where we are. I hope for example the editors of the Washington Post will read this, and reconsider their opposition to a balanced budget amendment. The reality is we need that.

The second article talking about David Stockman, the former Budget Director, says in 1986 Stockman urged Democratic and Republican politicians to, "together * * * tell the American people that a few ideologues made a giant mistake, and that the Government the public wants will require greater sacrifices in future in the form of the new taxes which must be levied."

There is no question we are going to have to both cut spending and increase revenues. That is not fun for a politician to talk about. But those are the realities that we have to face.

In addition to the second article, Mr. President, is the article written by Steven Mufson where E.J. Dionne, Jr., helped on it, "Economists Argue Over Size Of The Budget Deficit Problem."

I could go on go on in greater detail, but the reality is these articles point out vividly why we have to change our habits. I frankly do not think we are going to change them significantly without a balanced budget amendment.

I see on the floor our distinguished colleague from Nebraska, Senator EXON. I remember when Senator EXON had that amendment to reduce the defense authorization $1 billion. We struggled and we finally did it. But that is out of an almost $300 billion budget. We have to do better.

TRIBUTE TO JOSEPH RAUH, JR.

Mr. SIMON. I want to pay tribute to someone who died recently. I had the privilege of attending a memorial ceremony for him, memorial ceremony is perhaps not the right word. But it was a tribute to Joseph Rauh, Jr., who was a remarkable leader in this country, who led on civil rights and fighting for the powerless. He was as selfless a person as I have ever met. He was unpretentious. He enjoyed life to its fullest.

He was not listed as a public servant in the tradition of having a title like Senator or something like that. But he was as much a public servant as anyone I have ever known.

He was a remarkable human being. We shall all miss him.

TRIBUTE TO SENATOR METZENBAUM

Mr. SIMON. Mr. President, I want to pay tribute to one of our colleagues in the Senate, Senator METZENBAUM.

We just passed the tax bill. It had some very good things in it. It had some very bad things in it.

One of the things that I oppose is granting goodwill to corporations that buy up other corporations. That was defeated. I had 19 votes for my amendment, which is maybe more than I expected.

What I did not include in my amendment was a retroactive feature that says that corporations that want to settle on lawsuits with the IRS can pay back 25 cents on the dollar. HOWARD METZENBAUM stood here Saturday and waited and waited and waited and, finally, because there were not enough votes around here to pass anything and because the chief sponsors of the bill know what a bulldog HOWARD METZENBAUM is, they agreed to 50 percent; 50 percent is too much, Mr. President, but that difference between 25 percent and 50 percent will save hundreds of millions of dollars to the taxpayers—perhaps billions of dollars.

HOWARD METZENBAUM is listed as a liberal in the usual categories. HOWARD METZENBAUM has probably saved more money for the taxpayers of this Nation than any single Member of the Senate.

I have to say I am exceedingly proud to serve in this body with someone who is as courageous and as dogged as HOWARD METZENBAUM is.

Mr. President, I think my colleague from Nebraska wishes to speak at this point. But I do not see him on the floor right now.

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. LUGAR. 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. LUGAR. Mr. President, in an attempt to bring to a conclusion the amendment on which the Senate was focused prior to the intercession of the distinguished Senator from Illinois, I yield back all of the time on our side, and I am authorized by the distinguished proponent of the amendment, Senator WALLOP, to yield back all his time, so that we have completed action on the amendment.

The PRESIDING OFFICER. All time has been yielded back.

Mr. WALLOP. In fact, the agreement, by unanimous consent, is that a vote pertaining to this amendment would occur at 9 a.m. tomorrow morning.

The PRESIDING OFFICER. The Senator from Indiana is correct.

Mr. LUGAR. I simply note, for the benefit of all Senators, and especially the leadership on both sides of the aisle, the distinguished Senator from Wyoming [Mr. WALLOP] did not ask for the yeas and nays and indicated to me as he departed he would not be asking for the yeas and nays.

So, at this moment, a vote is to occur at 9 a.m., but the yeas and nays have not been called for.

Mr. President, I yield the floor.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 797 and Calendar 798. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's action.

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

The nominations, considered and confirmed en bloc, are as follows:

THE JUDICIARY

Dennis G. Jacobs, of New York to be U.S. circuit judge for the second circuit vice Wilfred Feinberg, retired.

Anita A. Brody, of Pennsylvania, to be U.S. district judge for the Eastern District of Pennsylvania.

Mr. SIMON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the following nominations from the Coast Guard on lists beginning with Thomas B. Rodino, Roger W. Bogue, Adeste F. Fuentes, and Robert J. Fuller, and that the Senate proceed to immediate consideration of the nominations.

I further ask unanimous consent that the nominations be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations, considered and confirmed en bloc, are as follows:

The following Regular officers of the United States Coast Guard for promotion to the grade of captain:

THOMAS B. RODINO
WILLIAM A. MCDONOUGH, JR.
JEFFREY T. PECK
JOSEPH G. MILO
LARRY M. WILSON
JAMES B. WILLIS
CHARLES E. BILLS
DONALD E. ESTES
DONALD P. MONTORO
WILLIAM J.WILKINSON, III
RONALD D. RECK
JAMES W. UNDERWOOD
BRUCE W. PLATZ, JR.
RICHARD F. CARLSON
DAVID B. PASCOE
WILLIAM T. HORAN
JOHN G. WITHERSPOON
ALVIN A. SARRA, JR.
DENNIS C. BOSSO
RAYMOND E. MATTSON
GREGG W. SUTTON
PAUL C. GOLDEN
MICHAEL W. MASTENBROOK
DENNIS M. MAGUIRE
JOSEPH T. KUCHIN
TIMOTHY J. FLANAGAN
NORMAN S. PORTER
MICHAEL B. SLACK
GAETANO MARTINI
BRUCE I. MERCHANT
WILLIAM A. CASSELS
LEONARD F. BOSMA
WILLIAM S. DAVIS
JACK L. BURI
ROGER T. ARGALAS
LARRY A. DOYLE
BRIAN G. BASEL
LAIRD H. HAIL
DENNIS G. BECK
RICHARD R. MEAD
GARY L. FRAGO
DENNIS M. EGAN
BIENVENIDO ABILES
THOMAS P. DOLAN
RICHARD A. KNEE
JAMES W. NORTON
EDWARD J. PEAK
THOMAS H. GILMOUR
WILLIAM H. WISSMAN
ARTHUR E. CROSTICK
JOSEPH A. STIMATZ
NORMAN B. HENSLEE
DENNIS D. ROME
EDMOND P. THOMPSON
TERRY W. NEWELL
RONALD C. GONSKI
THOMAS J. MEYERS
THOMAS G. LANDVOGT
HAROLD B. MORTON
LAWRENCE G. BRUDNICKI
JAMES M. ALDERSON
FREDRIC R. GILL
JIMMY NG
WALTER G. JOHNSON
THOMAS D. YEAROUT
CHARLES B. WILLIAMS
CLAY A. FUST
JAMES F. MCENTIRE, JR.
HENRY F. BALEY, IV
ERROLL M. BROWN
JOHN W. WHITEHOUSE
ALAN D. SUMMY
JOSEPH H. JONES, JR.
TIM B. DOHERTY
WAYNE H. OGLE
EDWIN E. ROLLISON, JR.
EDWARD E. PAGE
BRADLEY J. NIESEN
ROBERT D. INNES, JR.
KENNETH T. VENUTO

The following Regular officers of the United States Coast Guard for promotion to the grade of commander:

ROGER W. BOGUE
GEORGE R. TURNER, JR.
DWIGHT G. HUTCHINSON, III
ROBERT A. KUHN
THEODORE A. HOLLOMAN
GEOFFREY L. ABBOTT
DAVID G. WILDER, II
JAMES R. LACHOWICZ
JAMES D. WILLIAMSON
JEFFRY G. WAY
CARL A. CRAMPTON
SHAWN W. SMITH
BURTON E. CARR
JOHN P. CURRIER
WAYNE E. JUSTICE
WILLIAM R. WEBSTER
ERIC A. NICOLAUS
FLOYD G. LYSSY
ROBERT T. WRIGHT
PAUL R. GAUTHIER, JR.
ROBERT O. SMITH
CHARLES J. DICKENS
VICTOR M. POUNDS, JR.
HOWARD P. RHOADES
ROBERT D. ALLEN
JODY A. BRECKENRIDGE
RUSSELL N. TERRELL
GREGORY F. ADAMS
WILLIAM L. ROSS
BEVERLY G. KELLEY
REX M. TAKAHASHI
HOHN H. SIEMENS
RUBEN H. ARREDONDO
PAUL J. BERGMAN
ERNEST J. FINK
KEITH E. GRANT
MARION J. LEWANDOWSKI
WILLIAM R. PERRIN
ROBERT E. DUNN
LEONARD P. DEUTSCHMANN, JR.
PATRICK K. GREGORY
JOSEPH M. TOUZIN
JAMES A. FAVERO
JOHN W. SCHOEN
JAMES M. MCCOY
WILLIAM S. CHEEVER
DONALD R. GOLDSTEIN
THOMAS H. BRIGGS
JAMES A. DALE
COLLIN S. CAMPBELL
TIMOTHY L. BELTZ
WILLIAM A. KELSEY
DAVID G. WESTERHOLM
JOHN M. HOLMES
PETER J. HOPKINSON
KAY L. HICKMAN
RICHARD C. SIMONSON
BRIAN M. SALERNO
CYNTHIA A. COOGAN
MICHAEL G. WALLACE
ERNEST L. DELBUENO, JR.
RANDOLPH C. HELLAND
KIRK A. DAVIS
JOHN A. SCHOTT, JR.
GARY F. GREENE
STEPHEN L. WILHELM
GEORGE E. HOWE
THOMAS W. SPARKS
GREGORY T. JONES
JERRY K. THORUSEN
THOMAS P. LEVEILLE
JAY D. MAHAFFEY
LAWRENCE C. VOSE
JOSEPH E. WIGGINS
CATHERINE M. MCNALLY
BLAINE D. HORROCKS
MICHAEL N. POWERS
PETER L. SEIDLER, II
ALAN L. PEEK
PHILLIP J. HEYL
ROBIN K. KUTZ
PHILIP E. COLETTI
EDMUND MARMOL
ROGER D. GIBSON
JAMES S. ANGERT
RICHARD F. BESELER
DAVID T. GLENN
BRIAN S. WHITE
JOHN E. HARRINGTON
JAMES B. HALL
JOSEPH L. NIMMICH
RAYMOND E. SEEBALD
KEVIN E. SCHUMACHER
DONALD E. WILT, II
JAMES M. HASS, IV
ROBERT J. MORRISON, JR.
ALBERT L. BARCO, IV
GERALD R. WHEATLEY
DAVID P. PEKOSKE
ROBERT M. ELSENER
ROBERT J. QUIRK
PAUL F. ZUKUNFT
ARTHUR O. HALVORSON
RICHARD P. YATTO
JEFFREY Q. GAMBLE
JEROME A. ILTIS
MICHAEL R. MOORE
DANIEL R. BROWN
MICHAEL D. FARRELL
ROBERT S. BRANHAM
KENNETH M. BRADFORD
EDWARD S. CARROLL
RONALD B. HOFFMAN
DALE E. WALKER
KEITH G. JOHNSON
CRAIG E. BONE
ROBERT L. MCLAUGHLIN
LARRY E. JAEGER
SCOTT E. HARTLEY
ROBERT L. LACHOWSKY
KENNETH ARMSTRONG
GEORGE H. TEUTON, III
WILLIAM G. SHULTZ
KEVIN P. JARVIS
THOMAS R. RICE
MARK J. CAMPBELL
ERNEST W. FOX
JOHN C. MIKO
BURTON S. RUSSELL
MICHAEL P. SELAVKA
DOUGLAS D. WHITMER
KEITH D. CAMERON
EDWARD D. NELSON
THEODORE P. MONTGOMERY
MARK P. THOMAS
WILLIAM B. BAKER
DANIEL C. SLYKER
DAVID S. BRIMBLECOM
JOHN E. DEJUNG
BRUCE A. DRAHOS
ROBERT C. PARKER
CURTIS L. GUNN
MICHAEL B. KARR
RONALD E. KILROY
LOUIS R. SKORUPA
MARTIN L. PHILLIPS
JOHN J. O'BRIEN, JR.
DENNIS J. HAISE
JAMES T. POTDEVIN
FRANCIS X. O'BYRNE, JR.
JOSEPH J. OCKEN
KENNETH E. SCHOLZ
PAUL S. NEELD
JOHN S. BURHOE
THOMAS A. TANSEY
JEFFREY A. KARONIS
HUGH F. SAGE
DAVID M. ILLUMINATE
LISTON A. JACKSON
WILLIAM L. CAREY
MICHAEL J. BRENNAN
FRANCIS L. SHELLEY, III

The following Regular officers of the United States Coast Guard for promotion to the grade of lieutenant commander:

ADESTE F. FUENTES
LAWRENCE J. MUSARRA
THOMAS P. VIETEN
JAMES A. SARTUCCI
JODY B. TURNER
KENNETH J. THORKILDSEN
GERALD A. DEMETRIFF
DANIEL R. MACLEOD
MELISSA A. WALL
RICHARD A. CURRIER
ROBERT M. WILKONS
WILLIAM H. DAUGHDRILL
SCOTT M. POLLOCK
CURTIS A. SPRINGER
ROBERT M. PALATKA
TIMOTHY G. JOBE
CHRISTIAN BROXTERMAN
STEPHEN G. KINNER, JR.
SCOTT C. SCHLEIFFER
RICKEY W. GEORGE
ELMO L. ALEXANDER, II
ROBERT D. CASTLE, JR.
MARK E. LICKERS
WALTER T. HUNNINGS
JOHN J. COOK
MARK A. ROSE
JOHN F. KAPLAN
TIMOTHY M. CLOSE
PAMELA A. RUSSELL
WILLIAM T. DEVEREAUX
STEVEN A. MUNSON
MATTHEW J. GLOMB
DAVID C. ELY
STEPHAN A. BILLIAN
MARK E. BUTT
PETER S. SIMONS
THADDEUS G. SLIWINSKI
GREGORY W. BUIE
STEVEN R. CORPORON
KRISTIN J. ARNOLD
WILLIAM J. REICKS
STEPHEN E. FLYNN
JAMES Y. POYER
VINCE S. SEDWICK
PETER S. MARSH
EUGENE F. CUNNINGHAM
JOSEPH E. MIHELIC
LOUISE A. STEWART
STEVEN E. CARLSON
PAUL H. TINGLEY
SAMUEL R. WATKINS
MICHAEL C. COSENZA
RAYMOND J. PETOW
DANIEL J. MCCLELLAN
ARTHUR C. WALSH
MICHAEL R. KELLEY
JOHN A. WATSON
DAVID A. DURHAM
LEONARD R. RADZIWANOWICZ
MICHAEL N. PARKS
CRAIG A. BENNETT
DOUGLAS G. RUSSELL
THOMAS R. HALE
GEORGE P. HANNIFIN
JAMES L. MCDONALD
KEVIN M. O'DAY
WILLIAM J. DIEHL
TERRY A. BICKHAM
MORRIS B. STEWART
EDMUND H. TUPAY
BRIAN D. KELLEY
THOMAS F. ATKIN
MICHAEL F. FLANAGAN
JOSEPH A. SERVIDIO
JOSEPH P. SEEBALD
EDWARD W. GREINER
MARC L. DEACON
JEFFREY S. HAMMOND
JOHN M. WEBER
CHARLEY L. DIAZ
DAVID A. CULVER
FRED M. MIDGETTE
ROSS E. BRYANT
MARK J. DANDREA
THOMAS R. GREENE
JEFFREY C. GOOD
DREW A. RAMBO
JEFFREY S. GRIFFIN
WILLAIM M. RANDALL
CHARLES A. MATHIEU
EVAN Q. KAHLER
SANDRA L. STOSZ
RICHARD L. ARNOLD

GEORGE P. CUMMINGS
FRED T. WHITE
ANDREW J. BERGHORN
KIMBERLY J. DAISHER
STEPHEN P. METRUCK
VINCENT B. ATKINS
THOMAS S. MORRISON
THOMAS A. ABBATE
ROGER E. DUBUC, JR.
KEVIN S. WELLS
JOHN S. EARLY
ROBERT S. HOLZMAN
MICHAEL E. LEHOCKY
NORMAN S. SELLEY
EDWARD SINCLAIR
MARK A. TORRES
THOMAS S. KUHANECK
DOUGLAS A. BLAKEMORE
DAVID R. CALLAHAN
WILLIAM F. MCMEEKIN
MICHAEL E. SULLIVAN
KARL R. BALDESSARI
LANCE O. BENTON
ROBERT G. MUELLER
KEVIN B. ASBURY
DAVID H. BOYD
GEGORY A. TAYLOR
DENNIS S. OTOSHI
RICHARD L. WHARTON
HAL R. SAVAGE, JR.
RUDY T. HOLM
KENNETH K. MOORE
THOMAS C. HICKMAN
MATHEW D. BLIVEN
SCOTT BURLINGAME
TODD GENTILE
VINCENT WILCZYNSKI
RICHARD K. MURPHY
KIRK E. HILES
EUGENE GRAY
JOHN J. JENNINGS
BRIAN K. WRIGHT
ROBERT M. PYLE
THOMAS D. WADE
KEVIN H. MILLER
GILBERT E. TEAL
RICHARD H. SCHLATTER, JR.
JAME E. RENDON
JOHN P. PHILBIN
KARL H. CALVO
TERRY D. GILBREATH
ROBERT M. DIEHL
RODERICK L. SMITH
SHELDON B. BLUE
LIAM J. SLEIN
JOHN J. MACALUSO
SCOTT P. LAROCHELLE
MICHAEL A. TEKESKY
PATRICK H. KNOWLES
THOMAS M. CULLEN
GERARD R. DOSTIE
JAMES A. SWEET
NICHOLAS J. STAGLINAO
ROBERT F. FINLEY
JOHN L. STURTZ
DAVID J. SWATLAND
BRIAN J. MARVIN
SARAH J. KRUPA
JOSEPH C. SINNETT
JAMES B. ROBBINS
KENNETH D. NORRIS
MICHAEL J. BACA
PAUL J. RODEN
ERIC D. HULTMARK
PAUL L. HUMPHREYS
MARK L. PORVAZNICK
MICHAEL F. LEONARD
CHARLES JAGER
JAMES J. O'CONNOR
PAUL A. STEWARD
JAMES B. KIDWELL
ERIC J. MOSHER
JACQUELINE A. STAGLIANO
MARY K. JAGER
PETER J. BERGERON
BRYAN J. SEALE
PETER J. ZOHORSKY
PAUL F. GUINEE
DOUGLAS J. SMITH
ANTHONY J. PALAZZETTI
THOMAS J. VITULLO
EDWARD P. NAGLE
SCOTT W. ROBERT
CHARLES V. STRANGFELD
STEVEN L. HUDSON
ALAN M. MARSILIO
STEVEN L. KOSKA
LISA R. TAMBLINGSONRICE
JENNIFER E. LAY
EDWARD P. SEEBALD
CHRISTOPHER E. ROBERTS
ORLANDO A. ARENAS
GREGG R. FONDACABE
ROBERT S. WALTERS
CHARLES R. DUDLEY
RANDALL D. JOHNSON
DAVID D. SIMMS
RICHARD G. EHRET
JAY E. MANTHORNE
RONALD E. KAETZEL
GARY R. COLLINS
EDWARD D. ZACHARIAS
PERRY J. COLBURN
DAVID A. FLAGG
STEVEN R. BAUM
LYLE A. RICE
PAUL J. CORMIER
JOSEPH M. HANSON
PAUL D. WALTON
JAMES B. MCPHERSON
SPENCER L. BYRUM
STEPHEN M. WHEELER
JOHN C. OWENS
RICHARD G. BRUNKE
LEONARD L. RITTER, JR.
MICHAEL J. FOLEY
MARK M. CAMPBELL
FRED R. CALL, III
CHRISTOPHER W. DOANE
KEITH D. WARD
MICHAEL A. HAMEL
PEYTON M. COLEMAN
STEVEN C. TAYLOR
JERRY R. WILSON
THOMAS E. ATWOOD
WILLIAM L. KASPAREK
THOMAS G. EDMONDS
JOSEPH J. LISKO
ROBERT F. SALMON
OSCAR L. RAY
JAMES P. GROSSMAN
JOSEPH S. PUNTINO
MICHAEL D. DAWE
LOYD A. GUTHRIE
TERRENCE M. MURPHY
MICHAEL T. DEBETTENCOURT
FRANK M. REED, JR.
KIMBERLY J. DAVIS
THOMAS M. HEITSTUMAN
MICHAEL E. KENDALL
TROY DEGROOT
MARK F. BOEHM
SHELBY R. KIRK
STEPHEN M. HICKOK
THOMAS H. ENGLISH
ROBERT L. MCALLISTER
CHARLES O. BOLL, JR.
ROBERT L. DESH
DANIEL B. ABEL
RICHARD T. GROMLICH
LINCOLN D. STROH
MATTHEW E. CUTTS
KEITH G. CURRAN
KEITH A. TAYLOR
JAMES W. SEEMAN
MARK R. HIGGINS
FREDERICK W. TUCHER
KRISTY L. PLOURDE
ROBERT V. FOGEL
RICHARD D. BELISLE
MAURA S. VASSAR
DAVID H. GORDNER
PAUL E. WIEDENHOEFT
JOHN C. O'DELL
WILLIAM H. TIMBS, JR.
KARL L. SCHULTZ
BRUCE L. TONEY
TERRY A. BOYD
EDWIN B. THIEDEMAN
JEFFREY S. LEE
KINGSLEY J. KLASSAN
LAWENCE E. CORNWELL
STEVEN J. O'MALLEY
MARK J. FALLER

The following Regular and Reserve officers of the United States Coast Guard to be permanent commissioned officers in the grade of lieutenant:

MARK E. MARRO
CHRISTOPHER N. HOGAN
ROBERT R. DUBOIS
COSMIN THEODORE
SEAN A. MCBREARTY
ERIC P. CHRISTENSEN
LOUIS M. MAGYAR
WALTER A. WESTIN
JAMES D. JENKINS, IV
WILLIAM J. BOEH
MARC P. LEBEAU
KRISTIN A. WILLIAMS

The following Regular officers of the United States Coast Guard of the permanent commissioned teaching staff at the Coast Guard Academy for promotion to the grade of commander:

ROBERT J. FULLER
RICHARD J. HARNETT

The following Regular officers of the United States Coast Guard of the permanent commissioned teaching staff at the Coast Guard Academy for promotion to the grade of lieutenant commander:

LUCRETIA A. FLAMMANG
MICHAEL A. ALFULTIS
JONATHAN C. RUSSELL

The following cadet of the United States Coast Guard Academy for appointment to the grade of ensign:

CARRIE M. STOFFEL

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

REQUIRING A WAITING PERIOD BEFORE PURCHASING A HANDGUN

The PRESIDING OFFICER. The clerk will read the bill S. 3282 for the second time.

The assistant legislative clerk read as follows:

A bill (S. 3282) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

Mr. SIMON. Mr. President, I object to further proceedings on this bill.

The PRESIDING OFFICER. Under rule XIV, the bill will be placed on the calendar.

Mr. SIMON. I thank the Chair.

PERMANENT RECORD CHANGE ON H.R. 11

Mr. SIMON. Mr. President, I ask unanimous consent that the permanent RECORD be changed with respect to action on two amendments to H.R. 11 to reflect that the Sanford amendment No. 3191 be a modification of the Cochran amendment No. 3190 and not a complete substitute.

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

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATION

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 622, S. 1690, the U.S. Fire Administration reauthorization.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1690) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, 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 "Fire Administration Authorization Act of 1992".

TITLE I—UNITED STATES FIRE ADMINISTRATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) $25,550,000 for the fiscal year ending September 30, 1992;

"(E) $26,521,000 for the fiscal year ending September 30, 1993; and

"(F) $27,529,000 for the fiscal year ending September 30, 1994.".

SEC. 102. PRIORITY ACTIVITIES OF THE UNITED STATES FIRE ADMINISTRATION.

(a) PRIORITY ACTIVITIES.—In expending funds appropriated pursuant to the amendments made by section 101 of this Act, the United States Fire Administration shall give priority to—

(1) reducing the incidence of residential fires, especially in residences of the very old, the very young, or the disabled in urban and rural areas, through the development and dissemination of public education and awareness programs, through arson research and technical assistance programs, and through research and development on new technologies;

(2) working with State fire marshals and other State level fire safety offices to identify fire problems that are national in scope;

(3) disseminating information about the activities and programs of the United States Fire Administration to State and local fire services;

(4) enhancing the residential sprinkler programs, including research, demonstration activities, and technical assistance to the public and private sectors;

(5) enhancing research into sprinkler programs in areas or structures with limited or no domestic water supply;

(6) through the National Fire Academy, enhancing the residential and field program in support of State level training programs, particularly those that support the volunteer fire service; and

(7) strengthening programs that help protect the lives and safety of fire and emergency medical services personnel, including research into causes of death and injuries, research and development on new technologies to mitigate and prevent injuries, dissemination of information, and technical assistance to State and local fire departments.

(b) REPORT TO CONGRESS.—The United States Fire Administration shall, within 1 year after the date of enactment of this Act, submit a report to the Congress on the activities undertaken pursuant to subsection (a)(1).

SEC. 103. REPORT ON IMPLEMENTATION OF HOTEL AND MOTEL FIRE SAFETY ACT OF 1990.

The United States Fire Administration shall, within 6 months after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on its progress in implementing the Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391; 104 Stat. 747), including amendments made by that Act. The report shall specify the nature of expenditures made as of the date of the report, as well as including an estimate of the costs and a specific schedule for implementation.

SEC. 104. LISTINGS OF DESIGNATED PLACES OF PUBLIC ACCOMMODATION.

Section 28 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2224) is amended—

(1) by striking "CERTIFIED" in the section heading; and

(2) in subsection (a)—

(A) by inserting "(acting through its Governor or the Governor's designee)" immediately after "each State" wherever it appears; and

(B) by striking "the Governor of the State or his designee certifies".

SEC. 105. FIRE PREVENTION AND CONTROL GUIDELINES FOR PLACES OF PUBLIC ACCOMMODATION.

(a) EXCEPTIONS FOR CERTAIN AUTOMATIC SPRINKLER SYSTEMS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) EXCEPTIONS.—(1) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce with an automatic sprinkler system installed before October 25, 1992, if the automatic sprinkler system is installed in compliance with an applicable standard (adopted by the governmental authority having jurisdiction, and in effect, at the time of installation) that required the placement of a sprinkler head in the sleeping area of each guest room.

"(2) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce to the extent that such place of public accommodation affecting commerce is subject to a standard that includes a requirement or prohibition that prevents compliance with a provision of National Fire Protection Association Standard 13 or 13-R. In such a case, the place of public accommodation affecting commerce is exempt only from that specific provision.".

(b) DEFINITIONS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by adding at the end of subsection (d), as redesignated by this section, the following new paragraph:

"(3) The term 'governmental authority having jurisdiction' means the Federal, State, local, or other governmental entity with statutory or regulatory authority for the approval of fire safety systems, equipment, installations, or procedures within a specified locality.".

TITLE II—NATIONAL FALLEN FIREFIGHTERS FOUNDATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Fallen Firefighters Foundation Act".

SEC. 202. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Fallen Firefighters Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation to be organized under the laws of the State of Maryland and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) primarily to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with it;

(2) to provide financial assistance to families of fallen firefighters for transportation to and lodging at non-Federal facilities during the annual memorial service;

(3) to assist State and local efforts to recognize firefighters who die in the line of duty; and

(4) to provide scholarships and other financial assistance for educational purposes and job training for the spouses and children of fallen firefighters.

SEC. 203. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) VOTING MEMBERS.—The Foundation shall have a governing Board of Directors (hereafter in this title referred to as the "Board"), which shall consist of nine voting members, of whom—

(A) one member shall be an active volunteer firefighter;

(B) one member shall be an active career firefighter;

(C) one member shall be a Federal firefighter; and

(D) six members shall have a demonstrated interest in the fire service.

(2) NONVOTING MEMBER.—The Administrator of the United States Fire Administration of the Federal Emergency Management Agency (hereafter in this title referred to as the "Administrator") shall be an ex officio nonvoting member of the Board.

(3) STATUS OF BOARD MEMBERS.—Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(4) COMPENSATION.—Members of the Board shall serve without compensation.

(b) APPOINTMENT AND TERMS.—Within 3 months after the date of enactment of this Act, the Administrator shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years, except that the Administrator, in making the initial appointments to the Board, shall appoint—

(1) three members to a term of 2 years;

(2) three members to a term of 4 years; and

(3) three members to a term of 6 years.

(a) VACANCY.—A vacancy on the Board shall be filled within 60 days in the manner in which the original appointment was made.

(d) CHAIRMAN.—The Chairman shall be elected by the Board from its voting members for a 2-year term.

(e) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a member of the Board misses three consecutive meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (c).

(g) GENERAL POWERS.—

(1) ACTIONS BY THE BOARD.—The Board may complete the organization of the Foundation by—

(A) appointing no more than two officers or employees;

(B) adopting a constitution and bylaws consistent with this title; and

(C) undertaking other such acts as may be necessary to carry out this title.

(2) LIMITATION.—Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services.

(h) OFFICERS AND EMPLOYEES.—

(1) STATUS.—Officers and employees of the Foundation shall not be considered Federal employees, shall be appointed without regard to title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) MAXIMUM SALARY.—No officer or employee may receive pay in excess of the annual rate of basic pay prescribed for level GS-15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 204. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Maryland; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 202, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the State of Maryland, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income therefrom;

(4) to enter into contracts and other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(5) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.

The Administrator may provide personnel, facilities, and other administrative services to the Foundation and shall require and accept reimbursements for such personnel, facilities, and services that shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 206. VOLUNTEER STATUS.

The Administrator may accept, without regard to the Federal civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the United States Fire Administration, as volunteers in the performance of the functions authorized under this title.

SEC. 207. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Foundation shall, within 4 months after the end of each fiscal year, prepare and submit to the appropriate committees of the Congress a report of the Foundation's proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF FOR CERTAIN FOUNDATION ACTS OR FAILURES TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with the purposes set forth in section 202(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General may petition in the United States District Court for the District of Colum-

bia for such equitable relief as may be necessary or appropriate.

SEC. 208. IMMUNITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

S 1690 RS——2

AMENDMENT NO. 3320

(Purpose: To make an amendment in the nature of a substitute)

Mr. SIMON. Mr. President, I send the Bryan substitute amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for Mr. BRYAN, proposes an amendment numbered 3320.

Mr. SIMON. 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:

In lieu of the matter proposed to be inserted by the Committee amendment to the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fire Administration Authorization Act of 1992".

TITLE I—UNITED STATES FIRE ADMINISTRATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) $25,550,000 for the fiscal year ending September 30, 1992;

"(E) $26,521,000 for the fiscal year ending September 30, 1993; and

"(F) $27,529,000 for the fiscal year ending September 30, 1994.".

SEC. 102. PRIORITY ACTIVITIES OF THE UNITED STATES FIRE ADMINISTRATION.

(a) PRIORITY ACTIVITIES.—In expending funds appropriated pursuant to the amendments made by section 101 of this Act, the United States Fire Administration shall give priority to—

(1) reducing the incidence of residential fires, especially in residences of the very old, the very young, or the disabled in urban and rural areas, through the development and dissemination of public education and awareness programs, through arson research and technical assistance programs, and through research and development on new technologies;

(2) working with State Fire Marshals and other State level fire safety offices to identify fire problems that are national in scope;

(3) disseminating information about the activities and programs of the United States Fire Administration to State and local fire services;

(4) enhancing the residential sprinkler programs, including research, demonstration activities, and technical assistance to the public and private sectors;

(5) enhancing research into sprinkler programs in areas or structures with limited or no domestic water supply;

(6) through the National Fire Academy, enhancing the residential and field program in support of State level training programs, particularly those that support the volunteer fire service; and

(7) strengthening programs that help protect the lives and safety of fire emergency medical services personnel, including research into causes of death and injuries, research and development of new technologies to mitigate and prevent injuries, dissemination of information, and technical assistance to State and local fire departments.

(b) REPORT TO CONGRESS.—The United States Fire Administration shall, within 1 year after the date of enactment of this Act, submit a report to the Congress on the activities undertaken pursuant to subsection (a)(1).

SEC. 103. REPORT ON IMPLEMENTATION OF HOTEL AND MOTEL FIRE SAFETY ACT OF 1990.

The United States Fire Administration shall, within 6 months after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on its progress in implementing the Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391; 104 Stat. 747), including amendments made by that Act. The report shall specify the nature of expenditures made as of the date of the report, as well as including an estimate of the costs and a specific schedule for implementation.

SEC. 104. LISTINGS OF DESIGNATED PLACES OF PUBLIC ACCOMMODATION.

Section 28 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2224) is amended—

(1) by striking "CERTIFIED" in the section heading; and

(2) in subsection (a)—

(A) by inserting "(Act through its Governor or the Governor's designee)" immediately after "each State" wherever it appears; and

(B) by striking "the Governor of the State or his designee certifies".

SEC. 105. FIRE PREVENTION AND CONTROL GUIDELINES FOR PLACES OF PUBLIC ACCOMMODATION.

(a) EXCEPTIONS FOR CERTAIN AUTOMATIC SPRINKLER SYSTEMS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) EXCEPTIONS.—(1) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce with an automatic sprinkler system installed before October 25, 1992, if the automatic sprinkler system is installed in compliance with an applicable standard (adopted by the governmental authority having jurisdiction, and in effect, at the time of installation) that required the placement of a sprinkler head in the sleeping area of each guest room.

"(2) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce to the extent that such place of public accommodation affecting commerce is subject to a standard that includes a requirement or prohibition that prevents compliance with a provision of National Fire Protection Association Standard 13 or 13-R. In such a case, the place of public accommodation affecting commerce is exempt only from that specific provision.".

(b) DEFINITIONS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by adding at the end of subsection (d), as redesignated by this section, the following new paragraph:

"(3) The term 'governmental authority having jurisdiction' means the Federal, State, local, or other governmental entity with statutory or regulatory authority for the approval of fire safety systems, equipment, installations, or procedures within a specified locality.".

SEC. 106. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

(a) AMENDMENT.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

"SEC. 31. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

"(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) The term 'affordable cost' means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office space in a building that is not so protected.

"(2) The term 'automatic sprinkler system' means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

"(A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

"(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto.

"(3) The term 'equivalent level of safety' means an alternative design or system (which may include automatic sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems.

"(4) The term 'Federal employee office building' means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment.

"(5) The term 'housing assistance'—

"(A) means assistance provided by the Federal Government to be used in connection with the provision of housing, that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

"(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act or the homeownership assistance program under section 235 of such Act; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 40 of the Federal Deposit Insurance Act; or the

Resolution Trust Corporation under the affordable housing program under section 21A(c) of the Federal Home Loan Bank Act.

"(6) The term 'hazardous areas' means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto.

"(7) The term 'multifamily property' means—

"(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

"(B) in any other case, a residential building consisting of more than 4 residential units that are under one roof.

"(8) The term 'prefire plan' means specific plans for fire fighting activities at a property or location.

"(9) The term 'rebuilding' means the repairing or reconstructing of portions of a multifamily property where the cost of the alternations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

"(10) The term 'renovated' means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located.

"(11) The term 'smoke detectors' means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto.

"(12) The term 'United States' means the States collectively.

"(b) FEDERAL EMPLOYEE OFFICE BUILDINGS.—(1)(A) No Federal funds may be used for the construction or purchase of a Federal employee office building of 6 or more stories unless during the period of occupancy by Federal employees the building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the construction or purchase of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the building are protected by automatic sprinkler systems or an equivalent level of safety.

"(B)(i) Except as provided in clause (ii), no Federal funds may be used for the lease of a Federal employee office building of 6 or more stories, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,00 square feet of space is federally occupied, unless during the period of occupancy by Federal employees the entire Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the lease of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the entire Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(ii) The first sentence of clause (i) shall not apply to the lease of a building the construction of which is completed before the date of enactment of this section if the leasing agency certifies that no suitable building with automatic sprinkler systems or an equivalent level of safety is available at an affordable cost.

"(iii) Within 3 years after such date of enactment, and periodically thereafter, the Comptroller General shall audit a selection of certifications made under cause (ii) and report to Congress of the results of such audit.

"(2) Paragraph (1) shall not apply to—

"(A) a Federal employee office building that was owned by the Federal Government before the date of enactment of this section;

"(B) space leased in a Federal employee office building if the space was leased by the Federal Government before such date of enactment;

"(C) space leased on a temporary basis for not longer than 6 months;

"(D) a Federal employee office building that becomes a Federal employee office building pursuant to a commitment to move Federal employees into the building that is made prior to such date of enactment; or

"(E) a Federal employee office building that is owned or managed by the Resolution Trust Corporation.

Nothing in this subsection shall require the installation of an automatic sprinkler system or equivalent level of safety by reason of the leasing, after such date of enactment, of space below the sixth floor in a Federal employee office building.

"(3) No Federal funds may be used for the renovation of a Federal employee office building of 6 or more stories that is owned by the Federal Government unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the renovation of any other Federal employee office building that is owned by the Federal Government unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(4) No Federal funds may be used for entering into or renewing a lease of a Federal employee office building of 6 or more stories that is renovated after the date of enactment of this section, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for entering into or renewing a lease of any other Federal employee office building that is renovated after such date of enactment of this section, unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(c) HOUSE.—(1)(A) No Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless-

"(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after the date of enactment of this section, the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system (or equivalent level of safety) and hard-wired smoke detectors; and

"(ii) in the case of any other housing, the housing, before—

"(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of such date of enactment; or

"(II) the expiration of 3 years after such date of enactment, whichever occurs first, is protected by hard-wired smoke detectors.

"(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

"(2)(A)(i) Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

"(ii) For purposes of clause (i), the term 'newly constructed multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is newly constructed after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

"(iii) Clause (i) shall not apply to any multifamily property for which, before such date of enactment, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

"(B)(i) Except as provided in clause (ii), housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code), as in effect at the earlier of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

"(ii) If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101, the requirement under clause (i) shall not apply with respect to such specific provision.

"(iii) For purposes of this subparagraph, the term 'rebuilt multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is rebuilt after the last day of the second fiscal year that ends after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

"(C) After the expiration of the 180-day period beginning on the date of enactment of this section, housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hard-wired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

"(d) REGULATIONS.—The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense,

within 2 years after the date of enactment of this section, shall promulgate regulations to further define the term 'equivalent level of safety', and shall, to the extent practicable, base those regulations on nationally recognized codes.

"(e) STATE AND LOCAL AUTHORITY NOT LIMITED.—Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control. Nothing in this section shall be construed to reduce fire resistance requirements which otherwise would have been required.

"(f) PREFIRE PLAN.—The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

"(g) REPORTS TO CONGRESS.—(1) Within 3 years after the date of enactment of this section, and every 3 years thereafter, the Administrator of General Services shall transmit to Congress a report on the level of fire safety in Federal employee office buildings subject to fire safety requirements under this section. Such report shall contain a description of such buildings for each Federal agency.

"(2) Within 10 years after the date of enactment of this section, each Federal agency providing housing to Federal employees or housing assistance shall submit a report to Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

"(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

"(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation, including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

"(ii) include a comparative analysis of compartmentation using fire resistive materials and compartmentation using noncombustible materials.

"(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to 25 percent of the cost of the study required by subparagraph (A). Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated, for the Building and Fire Research Center at the National Institute of Standards and Technology, not to exceed $750,000. The study shall not commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after the date of enactment of this section.

"(h) RELATION TO OTHER REQUIREMENTS.—In the implementation of this section, the process for meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefore.".

(b) EFFECTIVE DATE.—Subsection (b) of section 31 of the Federal Fire Prevention and Control Act of 1974, as added subsection (a) of this section, shall take effect 2 years after the date of enactment of this Act.

TITLE II—NATIONAL FALLEN FIREFIGHTERS FOUNDATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Fallen Firefighters Foundation Act".

SEC. 202. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Fallen Firefighters Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation to be organized under the laws of the State of Maryland and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) primarily to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with it;

(2) to provide financial assistance to families of fallen firefighters for transportation to and lodging at non-Federal facilities during the annual memorial service;

(3) to assist State and local efforts to recognize firefighters who die in the line of duty; and

(4) to provide scholarships and other financial assistance for educational purposes and job training for the spouses and children of fallen firefighters.

SEC. 203. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) VOTING MEMBERS.—The Foundation shall have a governing Board of Directors (hereafter in this title referred to as the "Board"), which shall consist of nine voting members, of whom—

(A) one member shall be an active volunteer firefighter;

(B) one member shall be an active career firefighter;

(C) one member shall be a Federal firefighter; and

(D) six members shall have a demonstrated interest in the fire service.

(2) NONVOTING MEMBER.—The Administrator of the United States Fire Administration of the Federal Emergency Management Agency (hereafter in this title referred to as the "Administrator") shall be an ex officio nonvoting member of the Board.

(3) STATUS OF BOARD MEMBERS.—Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(4) COMPENSATION.—Members of the Board shall serve without compensation.

(b) APPOINTMENT AND TERMS.—Within 3 months after the date of enactment of this Act, the Administrator shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years, except that the Administrator, in making the initial appointments to the Board, shall appoint—

(1) three members to a term of 2 years;

(2) three members to a term of 4 years; and

(3) three members to a term of 6 years.

(c) VACANCY.—A vacancy on the Board shall be filled within 60 days in the manner in which the original appointment was made.

(d) CHAIRMAN.—The Chairman shall be elected by the Board from its voting members for a 2-year term.

(e) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a member of the Board misses three consecutive meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (c).

(g) GENERAL POWERS.—

(1) ACTIONS BY THE BOARD.—The Board may complete the organization of the Foundation by—

(A) appointing no more than two officers or employees;

(B) adopting a constitution and bylaws consistent with this title; and

(C) undertaking other such acts as may be necessary to carry out this title.

(2) LIMITATION.—Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services.

(h) OFFICERS AND EMPLOYEES.—±

(1) STATUS.—Officers and employees of the Foundation shall not be considered Federal employees, shall be appointed without regard to title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) MAXIMUM SALARY.—No officer or employee may receive pay in excess of the annual rate of basic pay prescribed for level GS–15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 204. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Maryland; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 202, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the State of Maryland, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income therefrom;

(4) to enter into contracts and other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(5) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.

The Administrator may provide personnel, facilities, and other administrative services

to the Foundation and shall require and accept reimbursements for such personnel, facilities, and services that shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services. Notwithstanding any other provision of law, Federal personnel and stationery shall not be used to solicit funding for the Foundation.

SEC. 206. VOLUNTEER STATUS.

The Administrator may accept, without regard to the Federal civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the United States Fire Administration, as volunteers in the performance of the functions authorized under this title.

SEC. 207. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Foundation shall, within 4 months after the end of each fiscal year, prepare and submit to the appropriate committees of the Congress a report of the Foundation's proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF FOR CERTAIN FOUNDATION ACTS OR FAILURES TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with the purposes set forth in section 202(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so, the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

SEC. 208. IMMUNITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

Mr. BRYAN. Mr. President, as chairman of the Commerce Committee Consumer Subcommittee, and a cochairman of the congressional fire service caucus, I am pleased to present for consideration by the full Senate S. 1690, legislation to reauthorize the U.S. Fire Administration.

Fire safety is an issue of enormous importance to our country. Statistics show that the United States has one of the worst fire problems of any country in the industrialized world. Each year over 6,000 Americans are killed, and an additional 30,000 suffer injuries in our Nation's fires. More than 2.4 million fires are reported in the United States every year, and it is believed that approximately 20 million more are unreported. These cost the American public $30 billion a year.

The U.S. Fire Administration was created in 1974 to address the Nation's fire problem. The Administration was created to assist State and local officials with fire prevention and control. The agency's activities include training programs for local firefighters, and public education programs.

The substitute I am offering today includes provisions reported by the Commerce Committee earlier this year. First, it seeks to provide the Federal Fire Administration with the necessary funding to carry out its much needed programs. The legislation authorizes funding for fiscal years 1992 through 1994. It also requires the Fire Administration to give priority to several issues and programs, including: First, the reduction of the incidence of residential fires, especially in residences of the young and elderly; second, strengthening programs that help protect the lives and safety of fire and emergency medical services personnel; and third, enhancing residential sprinkler programs. In addition, the legislation requires the Fire Administration to report to Congress on its progress in implementing the Hotel and Motel Fire Safety Act of 1990. That act was passed by the Congress to encourage the installation of sprinklers and smoke detectors in hotel and motel facilities, and thereby improve the fire safety of public accommodations.

The substitute also includes provisions reported by the Commerce Committee from S. 1698, legislation to establish the Fallen Firefighters Foundation. The Foundation is to be established for the benefit of the families of fallen firefighters. The foundation would be authorized to provide assistance to the families of fallen firefighters, including assistance to families to attend the annual memorial service at the National Firefighter Memorial in Emmitsburg, MD, and scholarships and financial assistance to the children and spouses of fallen firefighters who seek to further their education or job training.

The Foundation is to be governed by a board of directors of nine members, who are to be appointed by the U.S. Fire Administrator. The Board members are to include volunteer, career, and Federal firefighters, and other representatives from the fire service community. The Foundation is to be established as an independent organization, and will include members of the fire service, including volunteer, career, and Federal firefighters. The legislation bars any Federal funding of the Foundation, and the substitute makes clear that no Federal personnel and stationery are to be used to solicit funds for the Foundation.

In addition, the substitute includes the text of H.R. 3360, legislation that would require the installation of fire sprinklers in certain federally owned and constructed facilities.

This legislation, Mr. President, is important for the improvement of the Nation's fire protection efforts. I ask for the unanimous support of my colleagues.

Mr. HOLLINGS. Mr. President. As chairman of the Commerce Committee, I am pleased to express my support for S. 1690, legislation to reauthorize the U.S. Fire Administration [USFA]. The USFA was established to address our Nation's fire problem, and is vital in our overall effort to reduce the number of fire-related injuries and deaths that occur in our Nation each year.

In this regard, USFA works actively with State and local fire departments in developing programs to enhance public education about fire safety, and to provide training and educational programs for members of the fire service. Thus, passage of this legislation is not only necessary for the reauthorization of the USFA but also to provide the needed support and assistance to the brave men and women in our Nation's fire service. I, therefore, ask that my colleagues give their full support to this reauthorization bill.

Mr. SARBANES. Mr. President, I want to express my strong support for the measure which is currently before the Senate.

S. 1690 reauthorizes the programs of the U.S. Fire Administration and the National Fire Academy. Since these organizations were established in the Federal Fire Prevention and Control Act of 1974 they have played an important role in reducing the loss of life and property due to fire.

I am very pleased that the bill before us includes the language of S. 1698, legislation I authored to establish a National Fallen Firefighters Foundation. I want to thank Senator HOLLINGS and Senator BRYAN as well as their Republican colleagues, Senator DANFORTH and Senator GORTON, for their leadership in bringing this Foundation bill before the Senate.

Mr. President, establishment of a National Fallen Firefighters Foundation will help our Nation honor the approximately 100 firefighters who die in the line of duty each year.

These heroes are recognized by a simple yet stirring monument on the grounds of the National Fire Academy in Emmitsburg, MD. The memorial is a bronze Maltese cross, a traditional symbol of the fire service, atop a limestone pyramid. It is surrounded by plaques listing the firefighters who have died each year since the memorial was dedicated in 1981.

As my colleagues will recall, Congress has approved a joint resolution that I introduced to designate this striking monument as the official national memorial to volunteer and career firefighters who die in the line of duty. In 1990 that resolution became Public Law 101-347.

Each October, during Fire Prevention Week, a memorial service is held at the monument that honors all of the career and volunteer firefighters who were killed in the line of duty during the previous year. I have just sent to each

of my colleagues a letter inviting them to participate in this year's service which will be held on Sunday, October 11. More than 1,000 family members and fellow firefighters will gather on the Fire Academy campus to honor the 105 firefighters from 37 different States who died serving their communities during 1991.

Mr. President, the Foundation established by this bill would allow individuals and organizations to support both the memorial and the annual service with voluntary donations. Assuming that the Foundation raised more money than was needed for those primary purposes, my bill would permit financial help for the families of fallen firefighters such as educational scholarships and assistance with the cost of traveling to Maryland for the annual service. At the same time, the Foundation could use funds to assist with the planning, design, and construction of local memorials around our Nation honoring fallen firefighters.

The Foundation would be a charitable corporation run by a Board of Directors that would include at least one volunteer firefighter, one career firefighter, and one Federal firefighter. The Board would be appointed by the Administrator of the U.S. Fire Administration. Once sufficient funds were raised, the Board would be able to hire no more than two staff members.

In order to further limit administrative expenses, it is my intention that the Foundation would have its office on the Fire Academy campus. The Fire Administrator would provide office space, personnel, and other administrative support to the Foundation. The Administrator could accept reimbursement from the Foundation for the associated expenses.

Mr. President, I want to note that this bill has been strongly endorsed by the National Fire Academy Board of Visitors, the International Association of Fire Fighters, the National Volunteer Fire Council, the International Association of Arson Investigators, the National Fire Protection Association, the International Society of Fire Service Instructors, and by my friends in the Maryland State Firemen's Association.

At this time, Mr. President, I want to commend the 21 Senators who are cosponsors of S. 1698. I also want to thank Representative BEVERLY BYRON who introduced a House companion measure that has the bipartisan support of 65 Members.

I again thank the committee for including the National Fallen Firefighters Foundation in this bill and I urge adoption of the reauthorization.

Mr. GORTON. Mr. President, I am happy to offer my support for the passage of S. 1690, the Federal Fire Prevention Act, which has been modified to include several important fire safety measures. This bill has been greatly strengthened by the incorporation of H.R. 3360, the Federal Fire Safety Act of 1992. Consequently, the bill now includes provisions which enhance fire safety in new and renovated Federal office buildings, housing for Federal employees, and federally funded housing and rental assistance programs. These important safety measures will, undoubtedly, save the lives of many who work and live in Federal buildings and housing structures.

This bill has the support of many fire officials in Washington State and across the country because of the important safety and fire prevention measures which it encourages. By passing this legislation the Senate has taken an important step toward protecting our citizens from the devastation of fire.

Mr. JEFFORDS. Mr. President, the days before a Congress adjourns are often very frantic. For my colleague, Senator BRYAN, and I, this has definitely been true as we each try to complete important legislative initiatives. I am glad that my colleague and I were able to work together on this initiative.

There has been much said about Congress and the gridlock, but in this instance, I think a number of Members of both bodies deserve recognition for rising above gridlock. First, I want to commend Senator BRYAN. Without his assistance, firefighters' families would not be receiving the protection that they now will be. Second, I want to thank my colleagues on the Senate Commerce Committee for their recent efforts and the Labor and Human Resources Committee for their support over the last 2 plus years.

Next, I would like to thank my colleagues in the House. This bill would not have gone forward without the support of several Members of Congress. BILL FORD, BILL GOODLING, CASS BALLENGER, JOE GAYDOS, and PAUL HENRY of the Education and Labor Committee, I believe, deserve a special thanks. As the chairman, ranking member, and members of the authorizing committee, this bill would not have gone forward without their blessing. They did not have to give their support, but they did. I believe firefighters and their families owe much to these gentlemen.

I also want to thank GEORGE BROWN and BOB WALKER, the chairman and ranking member of the House Science Committee, and their fellow committee members RICK BOUCHER, MARILYN LLOYD, and SHERRY BOEHLERT. These individuals know the value of good science. At a critical time, they lent their support to this effort. I, and firefighters everywhere, owe these individuals a debt of gratitude.

As is true every Congress at this time of year, there is tremendous stress. Given the late hour, any amendment can seem troublesome until there has been time to review the issue at hand. Once my colleague and I had an opportunity to meet, we quickly worked things out.

The amendment itself enjoys broad support. Twelve of my colleagues have cosponsored the initiative, the Workers' Family Protection Act.

I want to thank Senators METZENBAUM, REID, LIEBERMAN, CHAFEE, D'AMATO, CONRAD, GORE, DODD, SASSER, MOYNIHAN, GLENN, and LEVIN.

What problem does the amendment address? It addresses the problem of workers inadvertently carrying toxic materials out of the workplace on their clothing into their homes. Exposure to family members results sometimes with disastrous results. Spouse and children have died from such exposure. Health officials estimate that 1 million families may be threatened, and firefighter's families may be at the greatest risk.

Let me cite a few case studies.

In Arizona, a 3-year-old girl died from liver cancer resulting from arsenic exposure in the home. Her father worked with arsenic at a copper smelter. In Hawaii, pesticide workers had 10 times the levels of arsenic in their homes than nonpesticide workers' homes.

In Kentucky, workers at a laundry contaminated their homes with asbestos as as result of removing insulation at work. They asked their employer for permission to change their clothes at work before going home and were told no. Then they were fired when their homes were found to be contaminated. Auto workers in Michigan have had their homes contaminated with asbestos, as have North Carolina textile workers, Mississippi paper mill and shipyard workers, and Florida airport workers. Many people have died as a result of home exposure to asbestos.

Lead has been found in homes many, many times as a result of workplace exposure. Home contamination incidents involving lead have occurred in Minnesota, South Carolina, Oregon, Iowa, Alabama, Indiana, Texas, Pennsylvania, North Carolina, Kentucky, New Jersey, Colorado, Tennessee, Virginia, and my home State of Vermont. The dangers of lead are well known, but did my colleagues know that the blood from newborn babies umbilical cords have significantly higher blood lead levels when the fathers work with lead than when the fathers are not involved with lead? I have found documented cases where babies had to be hospitalized because of home exposure to workplace lead.

These are not the only contaminants that have been transported from the workplace to the home. Mercury, PCB's, dioxins, pesticides, even radionuclides from the workplace have been found in homes. Wives of PCB workers, for example, have been found to have PCB's in their blood, for example.

Many cases where family members have died or have been permanently injured have been documented. Children have even been poisoned by exposure to contaminants left by the previous occupant of a home or by their parents before they were even born. I have even found cases of home contamination dating back to the 1930's in most States of the Union. Thus, to my colleagues, this is a problem that most certainly affects your constituents.

Numerous studies have been done showing a relationship between a parents' occupation and cancer in their children. Exposure to workplace chemicals in the home is one hypothesized exposure route. Given that this problem was identified as early as 1935, in Pennsylvania I might add, its well passed time we starting addressing it.

So what does this bill do? This bill simply asks the five agencies with some responsibility for preventing or responding to home contamination to work together on a scientifically sound strategy to first assess the scope of the problem, and then to act to prevent future incidents. Special consideration is given to the family members of firefighters as they are often neglected by other occupational safety programs.

The National Institutes for Occupational Safety and Health, or NIOSH, is given the lead role. NIOSH is to collect the available information on this problem. I plan to make my files on this subject available to NIOSH to assist in this effort.

Then, experts from various professions, from industrial hygiene to medicine, are to review this information and determine what if any data gaps exist and how best to fill these data gaps. This strategy for assessing the problem is then to be peer reviewed, finalized, and implemented.

As you can imagine, home contamination is a very volatile and sensitive issue. Thus, I understand the work that the sponsors of the underlying bill have accomplished. Consensus on tough issues is tough.

This amendment, however, is a responsible approach to addressing this problem. It is supported by both labor and industry. Neither I nor to my knowledge any of my colleagues know the extent of this problem. This approach will provide the answers we need.

Once again, I thank my colleagues for their assistance and hope firefighters across the country will let them know how much their efforts are appreciated.

AMENDMENT NO. 3321 TO AMENDMENT NO. 3320

(Purpose: To require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes)

Mr. LUGAR. Mr. President, I send an amendment to the desk on behalf of Mr. JEFFORDS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 3321 to Amendment No. 3320.

Mr. LUGAR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC.—.WORKERS' FAMILY PROTECTION

(a) SHORT TITLE.— This section may be cited as the "Workers' Family Protection Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) hazardous chemicals and substances that can threaten the health and safety of workers are being transported out of industries on workers' clothing and persons:

(B) these chemicals and substances have the potential to pose an additional threat to the health and welfare of workers and their families;

(C) additional information is needed concerning issues related to employee transported contaminant releases; and

(D) additional regulations may be needed to prevent future releases of this type.

(2) PURPOSE.— It is the purpose of this section to—

(A) increase understanding and awareness concerning the extent and possible health impacts of the problems and incidents described in paragraph (1);

(B) prevent or mitigate future incidents of home contamination that could adversely affect the health and safety of workers and their families.

(C) clarify regulatory authority for preventing and responding to such incidents; and

(D) assist workers in redressing and responding to such incidents when they occur.

(c) EVALUATION OF EMPLOYEE TRANSPORTED CONTAMINANT RELEASES.

(1) STUDY.—

(A) IN GENERAL.— Not later than 18 months after the date of enactment of this Act, The Director of the National Institute for Occupational Safety and Health (hereafter in this section referred to as the "Director"), in cooperation with the Secretary of Labor, the Administrator of the Environmental Protection Agency , the Administrator of the Agency for Toxic Substances and Disease Registry, and the heads of other Federal Government agencies as determined to be appropriate by the Director, shall conduct a study to evaluate the potential for, the prevalence of, and the issues related to the contamination of workers' homes with hazardous chemicals and substances, including infectious agents, transported from the workplace of such workers.

(B) MATTERS TO BE EVALUATED.— In conducting the study and evaluation under subparagraph (A), the Director shall—

(i) conduct a review of past incidents of home contamination through the utilization of literature and of records concerning past investigations and enforcement actions undertaken by—

(I) the National Institute for Occupational Safety and Health;

(II) the Secretary of Labor to enforce the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(III) States to enforce occupational safety and health standards in accordance with section 18 of such Act (29 U.S.C. 667); and

(IV) other government agencies (including the Department of Energy and the Environmental Protection Agency), as the Director may determine to be appropriate;

(ii) evaluate current statutory, regulatory, and voluntary industrial hygiene or other measures used by small, medium and large employers to prevent or remediate home contamination;

(iii) compile a summary of the existing research and case histories conducted on incidents of employee transported contaminant releases, including—

(I) the effectiveness of workplace housekeeping practices and personal protective equipment in preventing such incidents;

(II) the health effects, if any, of the resulting exposure on workers and their families;

(III) the effectiveness of normal house cleaning and laundry procedures for removing hazardous materials and agents from workers; home and personal clothing;

(IV) indoor air quality, as the research concerning such pertains to the fate of chemicals transported from a workplace into the home environment; and

(V) methods for differentiating exposure health effects and relative risks associated with specific agents from other sources of exposure inside and outside the home;

(iv) identify the role of Federal and State agencies in responding to incidents of home contamination;

(v) prepare and submit to the Task Force established under paragraph (2) and to the appropriate committees of Congress, a report concerning the results of the matters studied or evaluated under clauses (i) through (iv); and

(iv) study home contamination incidents and issues and worker and family protection policies and practices related to the special circumstances of firefighters and prepare and submit to the appropriate committees of Congress a report concerning the findings with respect to such study.

(2) DEVELOPMENT OF INVESTIGATIVE STRATEGY.—

(A) TASK FORCE.—Not later than 12 months after the date of enactment of this Act the Director shall establish a working group, to be known as the "Workers' Family Protection Task Force". The Task Force shall—

(i) be composed of not more than 15 individuals to be appointed by the Director from among individuals who are representative of workers, industry, scientists, industrial hygienists, the National Research Council, and government agencies, except that not more than one such individual shall be from each appropriate government agency and the number of individuals appointed to represent industry and workers shall be equal in number;

(ii) review the report submitted under paragraph (1)(B)(v);

(iii) determine, with respect to such report, the additional data needs, if any, and the need for additional evaluation of the scientific issues related to and the feasibility of developing such additional data; and

(iv) if additional data are determined by the Task Force to be needed, develop a recommended investigative strategy for use in obtaining such information.

(B) INVESTIGATIVE STRATEGY.—

(i) CONTENT.—The investigative strategy developed under subparagraph (A)(iv) shall identify data gaps that can and cannot be filled, assumptions and uncertainties associated with various components of such strategy, a timetable for the implementation of such strategy, and methodologies used to gather any required data.

(ii) PEER REVIEW.—The Director shall publish the proposed investigative strategy under subparagraph (A)(iv) for public comment and utilize other methods, including technical conferences or seminars, for the purpose of obtaining comments concerning the proposed strategy.

(iii) FINAL STRATEGY.—After the peer review and public comment is conducted under clause (ii), the Director, in consultation with the heads of other government agencies, shall propose a final strategy for investigating issues related to home contamination that shall be implemented by the National Institute for Occupational Safety and Health and other Federal agencies for the period of time necessary to enable such agencies to obtain the information identified under subparagraph (A)(iii).

(C) CONSTRUCTION.—Nothing in this section shall be construed as precluding any government agency from investigating issues related to home contamination using existing procedures until such time as a final strategy is developed or from taking actions in addition to those proposed in the strategy after its completion.

(3) IMPLEMENTATION OF INVESTIGATIVE STRATEGY.—Upon completion of the investigative strategy under subparagraph (B)(iii), each Federal agency or department shall fulfill the role assigned to it by the strategy.

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than 4 years after that date of enactment of this Act, and periodically thereafter, the Secretary of Labor, based on the information developed under subsection (c) and on other information available to the Secretary, shall—

(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and will be sufficient, or if additional regulations or standards are needed to protect workers and their families from employee transported releases of hazardous materials; and

(B) prepare and submit to the appropriate committees of Congress a report concerning the results of such determination.

(2) ADDITIONAL REGULATIONS OR STANDARDS.—If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate such regulations or standards as determined to be appropriate not later than 3 years after such determination.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from sums otherwise authorized to be appropriated, for each fiscal year such sums as may be necessary to carry out this section.

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

The amendment (No. 3321) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment (No. 3320) as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. 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 committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to engrossed for a third reading, was read the third time.

FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. SIMON. Mr. President, I ask unanimous consent the Commerce Committee be discharged from further consideration of H.R. 2042, the House companion, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 1690, as amended, be inserted in lieu thereof, that the bill be deemed read the third time, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the bill (H.R. 2042) was deemed read the third time, and passed.

Mr. SIMON. Mr. President, I ask unanimous consent that Calendar 622, be indefinitely postponed.

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

PARTNERSHIPS FOR WILDLIFE ACT

Mr. SIMON. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 1491, the Partnerships for Wildlife Act and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1491) to establish a partnership among the United States Fish and Wildlife Service, the States, and private organizations and individuals to conserve the entire diverse array of fish and wildlife species in the United States and to provide opportunities for the public to enjoy these fish and wildlife species through nonconsumptive activities.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

AMENDMENT NO. 3322

(Purpose: To clarify and amend certain provisions)

Mr. SIMON. Mr. President, I send to the desk an amendment on behalf of Senator MITCHELL and Senator CHAFEE and ask for its for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for Mr. MITCHELL (for himself and Mr. CHAFEE) proposes an amendment numbered 3322.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 9, line 22, subsection (d) is amended to read as follows:

"(d) LIMITATIONS ON FEDERAL PAYMENT.—The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

"(1) may not exceed $250,000.00;

"(2) may not exceed one third of the total project cost for that fiscal year;

"(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project;

"(4) may not be used to defray the administrative cost of State programs; and

"(5) may not exceed the State share of the cost of implementing such a project.".

On page 10, lines 17 and 18, strike "if such an agency diverts revenue form activities it regulates" and insert "if revenue derived from activities regulated by such an agency is diverted".

On page 11, line 12, immediately before the semi-colon insert", of which not more than 4 per centum shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this Act and evaluating wildlife conservation and appreciation projects".

On page 11, line 20, paragraph (4) is amended to read as follows:

"(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation and appreciation project under subsection (a) of this section, at least 50 per centum shall have been donated to the Fund by the National Fish and Wildlife Foundation.".

On page 12, line 4, strike the word "wholly".

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. MITCHELL. Mr. President, many songbird species that nest in this country and winter in Central and South America are declining. In the eastern United States, several of these species already are protected under the Endangered Species Act, and another 44 are showing signs of being in trouble.

Many other fish and wildlife species not traditionally pursued by hunters or anglers, sometimes called nongame wildlife, also are declining. For instance, there has been a nationwide de-

crease in the numbers of frogs and salamanders. The reasons for the decline of those species and many others are unknown. At the same time, the research and management programs that are necessary to reverse these declines and to prevent others are not being undertaken.

That is why I introduced the Partnerships for Wildlife Act, along with Senator CHAFEE. It will encourage badly needed wildlife research, management, conservation and appreciation projects through development of Federal-State-private partnerships.

Of the approximately 2,600 species of native fish and wildlife in the United States, about 80 percent are not considered to be game species. These species, from the cardinals and robins that visit our bird feeders to the puffins and pelicans that frequent our coasts, represent a rich recreational and cultural resource of the American people.

Despite the popularity of wildlife, however, it is obvious that we are doing too little to conserve most species. The U.S. Fish and Wildlife Service has prepared a list of 30 migratory bird species that warrant concern because of population declines, small population sizes, or habitat limitations. Eleven of these species are found in Maine.

In addition, there are over 275 fish and wildlife species officially classified as federally threatened or endangered. Many, if not all, of them would have escaped this perilous status if there had been programs in place to monitor and conserve them.

Continuing to pay inadequate attention to the full diversity of our wildlife will inevitably lead to the population declines of more species until they reach dangerously low levels where they, too, must be protected by the Endangered Species Act. At that point, the task of rebuilding a species' numbers is likely to be far less successful and far more costly.

The U.S. Fish and Wildlife Service, the 50 State fish and wildlife agencies and private organizations and businesses have all played important roles in the effort to sustain wildlife. But even greater achievements are possible if these efforts are made in concert with one another.

Partnerships in fish and wildlife conservation, such as the North American Wetlands Conservation Act, have proven to be remarkably successful. In its first 2 years, that law has stimulated over 200 partnerships resulting in $142 million to conserve more than 600,000 wetland acres.

The Partnerships for Wildlife Act seeks to forge similar cooperative efforts to conserve many neglected species of fish and wildlife and to provide greater opportunities for the public to enjoy these resources. And, although not yet enacted, this legislation already has begun to work. Earlier this year, at a hearing before the Environmental Protection Subcommittee, L.L. Bean in Freeport, ME, became the first private business to indicate its willingness to participate as a future partner in carrying out this legislation.

Under the Partnerships for Wildlife Act, the Federal Government, the States, and private businesses and organizations would each pay one-third of the cost of carrying out fish and wildlife conservation and appreciation projects. Consequently, the more than $6 million in Federal funding provided by the bill each year will be matched by at least $12 million in State and private funds.

Up to $250,000 in Federal funds, and at least an equal amount from private sources, will be available each year to help any State fish and wildlife agency inventory and monitor fish and wildlife species and their habitats, identify and potential threats to these species and their habitats, and provide opportunities for the public to view, learn about, and otherwise enjoy fish and wildlife. In Maine, these funds will benefit wildlife such as the box turtle and roseate tern, which have been designated as endangered and threatened, respectively, under State law, but not under the Federal Endangered Species Act.

I hope that my colleagues will join Senator CHAFEE and I in supporting enactment of the Partnerships for Wildlife Act. There are important economic, recreational, and educational reasons to encourage wildlife conservation and appreciation, but the most important reason, in my judgment, is that an abundant, diverse and healthy supply of fish and wildlife improves the quality of life for the American people.

Mr. CHAFEE. Mr. President, I rise in strong support of S. 1491 the Partnerships for Wildlife Act and would like to commend Senator MITCHELL for introducing this bill and for his continued leadership on fish and wildlife issues.

As we look toward preserving our natural heritage it is important to recognize the value of the diversity of plant and animal life that are integral components of our native environment.

This bill will help support efforts to conserve the 80 percent of our fish and wildlife species that are not currently protected under any law. It is my hope that through research, education, management, and conservation efforts we can prevent these species from ever becoming threatened or endangered.

This measure incorporates a partnership concept for nongame fish and wildlife conservation. It is modeled after the partnerships that been utilized very effectively to preserve wetlands under the North American Wetlands Conservation Act, which was also authored by Senator MITCHELL.

In addition, since 1986, the National Fish and Wildlife Foundation has matched $22 million in congressional appropriations with $40 million in non-Federal donations. That is a pretty good return—almost 2 to 1—and has been used to fund over 540 partnership projects to improve our plant, fish, and wildlife resources.

The remarkable success of public/private partnerships is due to the cooperative efforts of dedicated people from private businesses, conservation organizations, and State and Federal Government agencies. It is also indicative of widespread public support for preservation of our natural environment and concern for the decline of many fish and wildlife species.

The U.S. Fish and Wildlife Service reports that 98 million adults, more than one-half of the adult population of this country, participated in fish and wildlife related activities in 1991—contributing $59.5 billion to the national economy. Last year more than 76 million Americans enjoyed non-consumptive wildlife related activities such as feeding birds, observing and photographing wildlife.

The wildlife conservation and appreciation fund, established by this legislation, will help the public and private sectors work side-by-side to preserve native biological diversity and to provide many more opportunities for Americans to share in the enjoyment of our fish and wildlife species in their natural habitat.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 3322) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be proposed, without objection, the bill is deemed read a third time.

Is there any further debate?

Without objection, the bill is passed.

So the bill (S. 1491), as amended, was passed; as follows:

S. 1491

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partnerships for Wildlife Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over $14 billion on non-consumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately two thousand six hundred vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of vertebrate fish and wildlife species in North America are not harvested for human use.

(5) The continued well-being of this once-abundant fish and wildlife resource, and even the very existence of many species, is in peril.

(6) In 1987, the United States Fish and Wildlife Service reported that forty-five common migratory bird species, which are not hunted, had exhibited significant declines in abundance, and that thirteen of these species have experienced widespread, systematic declines of 46.9 percent during a twenty-year study period.

(7) There have been nationwide declines in frogs and other amphibians.

(8) Over two hundred and seventy-five of vertebrate fish and wildlife species in the United States are now officially classified as threatened or endangered by the Federal Government.

(9) During the past decade, fish and wildlife species, including invertebrates, were added to the rapidly growing list of threatened and endangered species in North America at the average rate of over one per month.

(10) Currently, eighty-two species of invertebrates in the United States are listed as threatened or endangered under the Endangered Species Act, and another nine hundred and fifty-one United States invertebrate species are candidates for listing under that Act.

(11) Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly desperate status of fish and wildlife.

(12) Proper fish and wildlife conservation includes not only management of fish and wildlife species taken for recreation and protection of endangered and threatened species, but also management of the vast majority of species which fall into neither category.

(13) Partnerships in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act have benefitted greatly the conservation of fish and wildlife and their habitats.

(14) A program that encourages partnerships among Federal and State governments and private entities to carry out wildlife conservation and appreciation projects would benefit all species of fish and wildlife through such activities as management, research, and interagency coordination.

(15) Many States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the entire array of diverse fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through nonconsumptive activities.

SEC. 3. PURPOSES.

The purposes of this Act are to establish a partnership among the United States Fish and Wildlife Service, designated State agencies, and private organizations and individuals—

(1) to carry out wildlife conservation and appreciation projects to conserve the entire array of diverse fish and wildlife species in the United States and to provide opportunities for the public to use and enjoy these fish and wildlife species through nonconsumptive activities;

(2) to enable designated State agencies to respond more fully and utilize their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects; and

(3) to encourage private donations, under the leadership of the National Fish and Wildlife Foundation, to carry out wildlife conservation and appreciation projects.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) The terms "conserve" and "conservation" means to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the educational, aesthetic, cultural, recreational, scientific, and ecological enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(2) The term "designated State agency" means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(3) The term "fish and wildlife" means wild members of the animal kingdom that are in an unconfined state.

(4) The term "Fund" means the Wildlife Conservation and Appreciation Fund established under section 5(f) of this Act.

(5) The term "National Fish and Wildlife Foundation" means the charitable and nonprofit corporation established under section 2 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701).

(6) The term "nonconsumptive activities" means fish and wildlife associated activities other than harvesting of fish and wildlife and includes, but is not limited to, photographing, observing, learning about, or associating with, fish and wildlife.

(7) The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(8) The term "wildlife conservation and appreciation project" means a project which is directed toward nonconsumptive activities or toward the conservation of those species of fish and widlife that—

(A) are not ordinarily taken for recreation, fur, or food; except that if under applicable State law, any fish and wildlife may be taken for recreation, fur, or food in some but not all, areas of the State, a wildlife conservation and appreciation project may be directed toward the conservation of any of such fish and wildlife within any area of the State in which such taking is not permitted;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1362(5)).

SEC. 5. WILDLIFE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—The Secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) ELIGIBLE PROJECTS.—The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

(1) inventory of fish and wildlife species;

(2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;

(3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;

(4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;

(5) actions to conserve fish and wildlife species and their habitats; and

(6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) PROJECT STANDARDS.—The Secretary shall not provide funding to carry out an eligible wildlife conservation and appreciation project unless the Secretary determines that such a project—

(1) is planned adequately to accomplish the stated objective or objectives;

(2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;

(3) will yield benefits pertinent to the identified need at a level commensurate with project costs;

(4) provides for the tracking of costs and accomplishments related to the project;

(5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and

(6) complies with all applicable Federal environmental laws and regulations.

(d) LIMITATIONS ON FEDERAL PAYMENT.—The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State Agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

(1) may not exceed $250,000;

(2) may not exceed one third of the total project cost for that fiscal year;

(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project;

(4) may not be used to defray the administrative cost of State programs; and

(5) may not exceed the State share of the cost of implementing such a project.

(e) FORM OF STATE SHARE.—The share of the cost of carrying out eligible projects under this section shall be from a non-Federal source and shall not be in the form of an in-kind contribution.

(f) ELIGIBILITY OF DESIGNATED STATE AGENCIES.—No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if revenue derived from activities regulated by such an agency is diverted for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) ESTABLISHMENT OF FUND.—(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund

by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund—

(A) amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this Act and evaluating wildlife conservation and appreciation projects; and

(B) amounts received as donations from the National Fish and Wildlife Foundation or other private entities or persons for deposit to the Fund.

(3) The Secretary may accept and use donations from the National Fish and Wildlife Foundation and other private entities or persons for purposes of assisting States under this section.

(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation and appreciation project under subsection (a) of this section, at least 50 percent shall have been donated to the Fund by the National Fish and Wildlife Foundation.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund and to the Secretary for each of fiscal years 1992 through 1995 not to exceed $6,250,000 to match the amount of contributions made to the Fund by the National Fish and Wildlife Foundation.

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

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

The motion to lay on the table was agreed to.

AMERICAN FOLKLIFE CENTER APPROPRIATIONS

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5058, a bill to authorize appropriations for the American Folklife Center for fiscal year 1993, just received from the House, that the bill read deemed read three times, passed, and the motion to reconsider laid upon the table.

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

So the bill (H.R. 5058) was deemed read a third time and passed.

NATIONAL RAILROAD PASSENGER CORPORATION AUTHORIZATION ACT

Mr. SIMON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4250.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 4250) entitled "An Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Swift, Mr. Slattery, Mr. Lent, and Mr. Ritter be the managers of the conference on the part of the House.

Mr. SIMON. Mr. President, I move that the Senate insist on its amendment, agree to the request of a conference, and that the Chair be authorized to appoint conferees on the part of the Senate.

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

The motion was agreed to, and the Chair appointed Mr. HOLLINGS, Mr. EXON, and Mr. DANFORTH, conferees on the part of the Senate.

CALENDAR

Mr. SIMON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 681 and 740 en bloc; that the bills be considered read for the third time, passed, and the motions to reconsider en bloc the passage of the bills be laid on the table.

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

U.S. COMMISSION ON CIVIL RIGHTS AUTHORIZATION ACT

The bill (H.R. 5399) to amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

U.S. COMMISSION ON CIVIL RIGHTS AUTHORIZATION

Mr. SIMON. As chairman of the Judiciary Committee Subcommittee on the Constitution, I am pleased to support H.R. 5399, legislation to set the fiscal year 1993 authorization for the U.S. Commission on Civil Rights at $8.27 million.

Last year at this time, Senator ORRIN HATCH and I drafted a 3 year extension of the Civil Rights Commission. Today, H.R. 5399, authored by the chairman of the House authorizing subcommittee, DON EDWARDS of California, increases the Commission's authorization from the current level to $8.27 million.

This authorization amount gives the Commission an inflation increase on nonsalary items, a cost of living increase, and an allotment for moving expenses. While I would prefer to see all of the Commission's resources go into substantive civil rights matters, the Commission is being forced to move because of what the General Services Administration has disclosed are unsafe conditions in its current building.

From my perspective, the amount set in this bill, while lower than the administration's request for the Civil Rights Commission this year, represents not only an increase in authorization amount but an increase in faith and trust in the Commission's work and accomplishments.

This year, for example, the Commission produced an extensive written report of the Civil Rights Issues Facing Asian Americans in the 1990s. This excellent report, widely heralded throughout Asian-American communities nationwide, documents the socioeconomic status of this growing population. The Commission also completed an additional report entitled, "Prospects & Impact of Losing State and Local Agencies from the Federal Fair Housing System.

Legislatively, the Commission made recommendations to Congress in support of the 1991 Civil Rights Act, testified in strong support of the Voting Rights Act Language Assistance Amendments of 1992, made formal comments to the EEOC disagreeing with its proposed policy guidance on the applicability of damage provisions to pending charges and pre-Act conduct in the implementation of the Civil Rights Act, and opposed the administration's proposal on minority scholarships.

The Commission has committed itself to a major programmatic focus on the broad ranging topic of "Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination." The goal of this effort is to focus national attention in the next 3 to 5 years on the state of ethnic and racial relations, the causes of the worsening tensions throughout our communities and the continuing need to find solutions to what has aptly been termed a national tragedy. The Commission has already held three fact-finding hearings, including one in the city of Chicago, to examine civil rights concerns of Hispanics and how communities can work together.

The Commission continues to address significant issues in the area of civil rights. We all need to pay closer attention on these pressing matters and I am pleased that the Commission is playing a role. I will continue to monitor the Commission's progress and work in the upcoming fiscal year.

FAIR HOUSING RIGHTS AMENDMENTS ACT

The bill (S. 1697) to amend title IX of the Civil Rights Act of 1968 to increase the penalties for violating the fair housing provisions of the Act, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1697

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Rights Amendments Act of 1991".

SEC. 2. PENALTIES FOR ACTS OF VIOLENCE OR INTIMIDATION.

Section 901 of the Act entitled "An Act to prescribe penalties for certain acts of vio-

lence or intimidation, and for other purposes", approved April 11, 1968 (known as the 'Civil Rights Act of 1968'; Public Law 90-284; 42 U.S.C. 3631), is amended to read as follows:

"SEC. 901. PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

"(a) UNLAWFUL ACTS.—It shall be unlawful to use force or threat of force, whether or not acting under color of law, to willfully injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with—

"(1) any person because of the race, color, religion, sex, handicap, familial status, or national origin of the person and because the person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

"(2) any person because the person is, or has been, or in order to intimidate the person or any other person or any class of persons from—

"(A) participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations, or facilities described in paragraph (1) of this section; or

"(B) affording another person or class of persons opportunity or protection so to participate; or

"(3) any citizen because the citizen is, or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations, or facilities described in paragraph (1), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity so to participate.

"(b) PENALTIES.—Whoever commits an act described in subsection (a)—

"(1) shall be fined not more than $100,000, or imprisoned not more than 1 year, or both;

"(2) that results in bodily injury shall be fined not more than $250,000, or imprisoned not more than 10 years, or both;

"(3) that results in death shall be subject to imprisonment for any term of years or for life; and

"(4) that results in property damage exceeding the sum of $100, or uses or attempts to use fire in committing the act, or uses or carries a firearm while committing the act, shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

"(c) DEFINITIONS.—As used in this section:

"(1) FAMILIAL STATUS.—The term 'familial status' has the meaning given the term in section 802.

"(2) FIREARM.—The term 'firearm' has the meaning given the term in section 921(a)(3) of title 18, United States Code.

"(3) HANDICAP.—The term 'handicap' has the meaning given the term in section 802.

"(4) BODILY INJURY.—The term 'bodily injury' has the meaning given the term in section 1515(a)(5) of title 18, United States Code."

EXECUTIVE SESSION

TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START TREATY)—TREATY DOC. NO. 102-20

PROTOCOL TO THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—TREATY DOC. NO. 102-32

The Senate continued with the consideration of the treaty and the protocol.

Mr. LUGAR. Will the Chair inform me of the number of the amendment that we were just debating?

The PRESIDING OFFICER. The amendment by the Senator from Wyoming is amendment numbered 3270.

Mr. LUGAR. I ask for the yeas and nays on amendment numbered 3270.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. For the information of all Senators, my understanding is that vote will occur, without previous business, at 9 a.m. tomorrow morning.

The PRESIDING OFFICER. The Senate will now return to legislative session.

LEGISLATIVE SESSION

Mr. EXON. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business.

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

UNDERCHARGE EQUITY ACT

Mr. EXON. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 592, S. 1675, the Undercharge Equity Act.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Mr. President, on behalf of a Member on our side of the aisle, I object.

The PRESIDING OFFICER. Objection is heard.

(Mr. WOFFORD assumed the chair.)

Mr. EXON. Mr. President, I intend to talk on this subject for some period of time.

Let me start out by saying that on a truly bipartisan basis, we have been trying—so far without success—to get up this undercharge matter for transportation that is causing great, great concern.

This measure came unanimously out of the Commerce Committee. We have had it cleared on both sides of the aisle on one or two occasions. And then, in the last 10 days or so, we have experienced the rolling hold. And everybody in this body knows what a rolling hold is. Maybe some of the people listening do not know what a rolling hold is.

A rolling hold is any Member of the U.S. Senate, if he is contacted by a special interest group or someone else, has the right to have an objection raised to the matter of bringing up the bill.

I just went through the exercise of doing that in the prescribed manner and, of course the matter was objected to on that side of the aisle.

Sooner or later, if we are ever going to eliminate the logjams, if we are going to eliminate serious matters that we find ourselves in from time to time that these days are best described as a gridlock, then we are going to have to make lots and lots of changes, including changes in the Senate rules that allow Senators to place holds on bills at will, especially when it is an organized effort by powerful forces outside of this body simply calling on the telephone and saying, "I object to such and such a measure, and would you put a hold on it?" So Senators, for reasons best known to themselves, put holds on the bill.

In this particular instance, the rolling hold has been most typical. There were four or five or six Senators on this side of the aisle that had placed holds on the bill. We tracked that down. And, finally, we would get one Senator to eliminate his hold on the bill. We would be ready to pass it and then, boom, up jumps another Senator that had been called by a special interest group to put a hold on the bill.

No longer than 15 minutes ago, in the well of the Chamber, I had a discussion with Senator BURNS from Montana, who is a very important member of the Surface Transportation Subcommittee under the Commerce Committee. He assured me that Senator KASTEN, who is the ranking Republican member of the Surface Transportation Subcommittee, had indicated that the matter had been thoroughly cleared on the Republican side of the aisle.

We had agreed that we would allow this to come up in the wrapup tonight and place it into law.

Why is this important? It is important because the undercharge matter is causing great disruption, especially to small businesses throughout the country.

I want to say that I support the Undercharge Equity Act of 1992. A great deal of work and negotiations have gone into this very important piece of legislation.

For those who are not familiar with the current undercharge crisis, I will attempt to briefly summarize exactly what the problems are and how this measure would correct them. I will simply say that, unless we can pass this bill, there remains a very ominous cloud which hangs over thousands of

Americans' businesses, both large businesses and small businesses.

In the heyday of the Reagan-Bush area of trucking deregulation, the Interstate Commerce Commission did a less than vigorous job of enforcing the requirement that trucking companies file their tariffs. At the same time, competition in the trucking business heated up. Discounting and low rates became rampant. Throughout the 1980's, trucking firms, both small and large, went out of business. Trustees of those bankrupt firms then went searching for some deep pockets to enlarge the assets of the bankrupt company.

The trustees came up an intriguing legal theory and attempted to collect from former customers of these bankrupt trucking firms. What they were talking about was the difference between the amount that was billed and paid and the amount of the last tariff that was on file with the Interstate Commerce Commission, which we generally called the ICC.

These claims became known as undercharges. It is as if you flew from Washington, DC, to Omaha for $200, and 3 years later, after you had paid your bill, after you had completed the transaction, you received another bill for $100 after the airline that you flew in went bankrupt.

In 1990, in somewhat of a surprising decision, known as the Maislin case, the U.S. Supreme Court ruled that the trustees could seek such reimbursement. The Court also sent a clear message to the Congress to legislatively address the inequities of this situation that were very much apparent to all.

Soon after the Supreme Court case, the Surface Transportation Subcommittee which I chair, held hearings. And not long after that I proposed legislation to virtually wipe out all undercharge claims. That legislation was stopped in the closing days of the 101st Congress.

Much has been said and much has been done. The current efforts to enact this Trucking Undercharge Equity Act as a freestanding bill have been stymied in the Congress again and again and again. And the stymieing is even more important at this particular juncture, as we try to end the session here in the next few days.

Also I would tell you, Mr. President, the people of responsibility in similar committees on the other side of the Hill, in the House of Representatives, are awaiting the passage of this bill so they can take proper action in the closing days of this session on their side of the Hill as well.

In the 102d Congress, I again introduced legislation and the subcommittee, with my colleagues on the Commerce Committee, attempted to find an equitable solution to this problem. After extensive discussions with all parties, the Senate Commerce Committee approved the Undercharge Equity Act which, rather than dismiss all claims, sought to craft an equitable settlement.

This equitable approach does not full satisfy anyone involved, which I would suggest is typical of some kind of reaching a consensus or a compromise. This equitable approach does not fully satisfy me, the Teamsters Union, the trucking companies, or all of the members on the Subcommittee of Surface Transportation.

But it does take an important step in the right direction. It does not fully destroy the interests of anyone involved with whom we have consulted, hours and hours and days and days.

Simply put, the legislation offers shippers two choices to settle undercharge claims. They can take their case to the Interstate Commerce Commission for a determination of rate reasonableness, or they can elect to utilize an expedited settlement procedure, based on a percentage of the prescribed bill.

Following the committee action I conducted another extended negotiation session with Senators ADAMS and WELLSTONE, who were concerned about the potential creditors in the undercharge cases. As a result of these discussions, we reached a consensus amendment which would provide shippers an equitable opportunity to dispose of these claims.

Under the settlement formula, small businesses would be relieved of any undercharged liability. Large truckload shippers would be given the option of settling for 10 percent of the equitable undercharge and large less-than-truckload shippers would be given an option of settling for 20 percent of the equitable undercharge.

Those who chose not to settle could litigate their liabilities through a rate reasonableness determination by the Interstate Commerce Commission.

This compromise is fair, it is just, it is the only thing we can do now, and it must be passed. The alternative to this legislation is to let the status quo stand. The status quo is untenable for all concerned, for shippers and, more important, for the Nation's economy. A dark cloud of billions of dollars—let me repeat, Mr. President—a dark cloud of billions of dollars of undercharge liabilities hangs over thousands of these businesses. For creditors, especially workers owed back wages and pension funds, any meaningful recovery is rapidly being eaten away by legal accounting, auditing, and lobbying collections, and over and over again the system repeats itself. The unemployed workers, the widows and orphans will not likely gain any benefit if undercharged cases are not addressed by the Congress.

The current situation only enriches the middleman. If the Congress does not act, only the pockets of the lawyers and the accountants and the lobbyists will be filled to overflowing. The undercharge equity bill is the best hope for all involved. For shippers it offers an opportunity to put the undercharge crisis behind them, and for creditors to offer certain settlement with minimal overhead expense.

Mr. President, we do not have the luxury to delay on this matter until next year. Many former customers of these bankrupt trucking companies will themselves soon face bankruptcy. Potential liabilities will also have an adverse impact on the availability of credit for firms caught in this unfair nightmare. Now is the time to act. I have offered a compromise in reason and in good faith. I ask my colleagues to embrace the hard work of the Commerce Committee and that of Senators ADAMS and WELLSTONE and myself and support the passage of the Undercharge Equity Act.

Mr. President, I simply point out that cosponsors of this amendment include the ranking Republican on the Subcommittee on Commerce, Senator KASTEN, and also an important member of that same subcommittee, Senator, BURNS, of the State of Montana.

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. EXON. Mr. President, I ask unanimous consent that the order for the quorum can be rescinded.

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

Mr. EXON. Mr. President, this is somewhat of a complicated issue, and to better explain how important this is, I would like to at this time read some newspaper stories that have come out on this matter so that the other Members of the U.S. Senate who have not been involved in this recognize what a critical problem we have here and why we have to solve it. I am reading now from a story regarding this proposal from the Washington Post of June 16, 1992. The headline is: "Law Lets Trucking Firms Raise Rates Retroactively." Subhead line: "Loophole Results in Flood of Revised Bills."

Dale Miller is a small business owner who makes fun things. With 70 employees and about $10 million a year in business, his New Berlin, Pa., company, Playworld Systems Inc., is not a giant of industry, but it does make a comfortable profit.

Last August, however, a thick envelope arrived from a lawyer in California that upset Miller's comfortable world. According to the attorney, the playground equipment manufacturer owed more than $500,000 to a bankrupt trucking company, Transcon Inc.

Miller had just entered the new twilight zone of transportation, in which attorneys for bankrupt truck lines are sending bills to hundreds of thousands of customers for billion of dollars in services they had already paid for. The practice, which got a low-key start a few years ago, has mushroomed in the last year. And the Supreme Court said that while it's unfair, it's legal.

That is why, Mr. President, this is a priority matter and I am going to do everything that I can to insist that the Senate act on and stay away from these special-interest groups outside this body who are blocking a measure which most of the Members of this Senate would vote for given an opportunity to do so.

Like other surprised business owners around the country, Miller had dealt honestly with the trucking company, agreeing on freight rates and paying his bills promptly. He had done nothing illegal or improper. But now, someone was saying: Sorry, we've found a loophole in the law and you actually owe a lot more.

"If we continue to exist, we're going to be at an incredible disadvantage," said Miller, who has already paid his own lawyer $30,000 to fight the charge. "The frustrating thing is we didn't do anything wrong."

The problem was created by the Motor Carrier Act of 1980, which was supposed to deregulate the trucking industry, but which left the job only half complete.

Attorneys have discovered that an internal conflict in the law allows trucking companies to retroactively charge the highest rate on file with the Interstate Commerce Commission (ICC), rather than lower rates they negotiated with their customers.

It is the equivalent of a bankrupt airline telling passengers who bought discount tickets that they now must pay full fare for a trip taken years ago, something that cannot happen because airline deregulation was more complete.

Attorneys for the bankrupt truck lines and the Teamsters Union say they are merely harvesting the assets of the bankrupt firms in an effort to repay creditors, including drivers who lost back wages and severance pay when lines closed.

But ICC Chairman Edward J. Philbin said that the "over charge" problem may become the largest matter ever to come before the commission.

That is a pretty big statement, but it is a very truthful one.

It threatens serious economic dislocations and bankruptcies for many firms, he said.

While the problem has been around a few years, its sudden severity caught everyone by surprise, including the ICC and the Bush administration. President Bush has ordered a review of all federal regulations that affect business, but the White House has paid almost no attention to the undercharge problem.

This is how the situation came about:

The Motor Carrier Act of 1980 only partly deregulated the trucking industry. It allowed more truck lines to be formed and made it easier to offer lower rates, but it also required the new rates to be filed with the ICC. The commission considers these filings, totaling as many as 1.5 million a year, to be a useless anachronism, just taking up space and the time of employees who merely open envelopes and file the paper away.

As competition increased, some major truck lines went bankrupt. Auditors for the bankrupt firms discovered that these lines often failed to file the new rates. They began sending shippers bills for the difference between the rate they paid and the maximum rate actually on file at the ICC.

The ICC declared the practice "unreasonable" and ordered it stopped. But the Supreme Court ruled in 1990 that despite the unfairness of the practice, it was legal, and only Congress could change it.

Let me deviate from the story now, if I might just a minute. The Supreme Court, the Interstate Commerce Commission, almost everyone who has looked at this and any reasonable person would agree that this practice is one that has to be stopped. But the Supreme Court even said in 1990 that despite the unfairness of the practice it was legal and only the Congress could change it.

That is what we are about here tonight, Mr. President. That is what we are about here in trying to do the people's work. The people's work in this case is the people who have been taken advantage of, as Mr. Miller, from the State of Pennsylvania, as I mentioned earlier, and hundreds and thousands of other large and small businesses just like Mr. Miller.

Also, I would certainly say that the ICC declared the practice unreasonable. The Supreme Court has said it is unreasonable. And they asked us to do something about it. It is about time we do, Mr. President, rather than to go through the shenanigans of holds, and holds, and holds that have been placed on this measure to keep it from becoming law.

Armed with the Supreme Court ruling, lawyers and collection agents are scouring the records of bankrupt motor carriers to find these "undercharges." They also have discovered legal challenges to rates that actually were filed, claiming the wrong rate was charged or that the rate was filed in an illegal form.

"It's like a vigilante operation," said Richard B. Felder, head of the ICC office of legal counsel.

Suddenly, the problem mushroomed from $500 million in claims in 1989 to between $1 billion and $2 billion in 1990 and now to potentially billions more.

Now, I am going to read that paragraph again because I think better than anything else, Mr. President, it should wake up the Senate and the House of Representatives that this is something which must be changed. I am going to read it again.

Suddenly, the problem mushroomed from $500 million in claims in 1989 to between $1 billion and $2 billion in 1990 and now to potentially billions more.

"Any shipper who uses a common carrier is in peril," said Stanton Sender, head of a group of shippers called the Coalition for an Undercharge Relief Bill (CURB).

The ICC says that undercharges have become so profitable that, in a few isolated cases, small trucking firms have sought bankruptcy court protection because they could collect more that way than by continuing normal operations.

"There are companies that think they're worth more dead than alive," Felder said.

The largest undercharge so far appears to be an $8 million bill to Ford Motor Co.; the smallest, a $100 bill to a homeowner who had a couch delivered COD.

Eastman Kodak Co. and International Business Machines Corp. are among the companies that have received huge bills. But hundreds of thousands of others, large and small, have been hit with surprise bills. In the Transcon bankruptcy alone, more than $1 billion has been charged to more than 370,000 former customers.

One of them is Rep. Cass Ballenger (R-N.C.), owner of Plastic Packaging Inc. of Hickory, N.C., who received a bill for $18,000. Ballenger is a member of the House Public Works and Transportation Committee, and said he will recuse himself when the committee votes on an undercharge bill. But that doesn't prevent him from having an opinion.

"As far as I'm concerned, it was unreal, unfair ruling by the court," he said. "But you know who's going to get it? Not the creditors. It's the lawyers. When the lawyers and accountants get together, you're lucky to get a nickel. It's a rip-off."

Like almost every aspect of this situation, there even is a dispute over how much money may be involved. The ICC puts the potential risk at $32 billion. But the attorneys for the bankrupt shippers scoff at that estimate, although they acknowledge the total claims will be "big."

Joseph L. Steinfeld Jr. of the Washington law firm Sims, Walker & Steinfeld called the $32 billion figure a "fabrication," and said the ICC itself is to blame for the problem because it did not enforce the law. Steinfeld is also a spokesman * * * the Creditors' Alliance to Preserve Freight Undercharge Assets.

"You can't live in a system where the policemen don't police," he said, charging that the ICC allowed cutthroat competition that drove many trucking firms out of business.

There is also disagreement over how much the bankrupt firms will actually get from the billings. The ICC estimates that 55 percent to 80 percent of everything collected will go to lawyers and collection agents.

Steinfeld said the ICC figure is too high. For example, he said the Transcon trustees will get 35 percent of the first $20 million collected, but 65 percent to 80 percent of what is collected above that.

"The mass amount of legal fees [is] being enjoyed now by the defense attorneys, who are charging by the hour," Steinfeld said. "We are working on contingency."

Certainly those who are alarmed by the huge possibility of what this act is trying to straighten out are obviously very much concerned because it is money out of their pockets.

The Senate and House committees are preparing bills to address the undercharge legislation.

Let me add a comment right here. The Senate and House are preparing bills. That is the undercharge bill that I tried to introduce with an objection from the Republican side a few moments ago.

On the House side, there has been no decision, as of the time this was written, as of last June, as I would say it has been now, on what approach to take.

Respresentative NORMAN MINETA, Democrat of California, chairman of the House Public Works and Surface Transportation Subcommittee, tried to bring all parties together to draft a compromise but he failed.

Mr. President, although Mr. MINETA failed at that time, I think Representative MINETA has made some great strides recently. We have not failed on the Senate side. We reported out a bill unanimously. After it came on file here

for consideration, there were concerns in many quarters about this, and it is best evidence for the fact that the rolling poll that took place over a number of days has come down to this hold tonight after all were assured on both sides of the aisle about half hour ago that the measure would not be objected to.

This is a matter of fairness. It is a matter of equity. It is a matter of trying to save those businesses that were cited, including the one in Pennsylvania that was quoted extensively in the article from the Washington Post that I just read and others.

What we have now out there in the marketplace today with regard to shipping rates is total chaos. You have shippers like Mr. Miller from Pennsylvania who has to ship his goods to make any money. If he ships his goods though he does not know, and has no way of knowing, whether the rate quoted him by the carrier at that time is the right rate or whether they will come back on him again for the thousands and thousands of dollars that they claim were undercharged.

I suppose you could argue, Mr. President, that in very large companies like the Ford Motor Co. and others, IBM, that certainly they have large shipping departments that have an intimate knowledge of what the rates are, what the rates should be, and what the rates are on file at the Interstate Commerce Commission. But even they get taken from time to time.

Some people have said, oh, yes, that is just like those big businesses. They will go out and do anything that they have to do to ship their merchandise from their factory at the best possible rate. I suspect that is a part of the free enterprise system. I suspect that most of us would, unless we know we were violating the law, take the cheapest bid that was given to us in good faith.

But even if the big companies should have the knowledge with their departments to figure this out, obviously that is not the case, Mr. President, with the thousands and thousands and millions of small businessmen around this country, or the person who is not even in business, who had a sofa delivered c.o.d. to his front door. Those are the people that have no way of knowing what rate is filed. And if you have a trucking company about to go broke I suspect to maintain cash flow they might go out in a very willy-nilly fashion and get a ridiculous rate, if you will, to haul some goods just for the cash flow possibility.

This is a very serious matter. As far as commerce is concerned in the United States, we are trying to move on this. We thought after all the work that had been done, all the hearings that had been held, all of the compromises that had been entered into, after the measure came to the floor, and reported out of the Commerce Committee, we had lengthy discussions with the Senator WELLSTONE from Minnesota, and others, including Senator METZENBAUM from Ohio who wanted to take a look at this; we had meetings with the shippers, with the Teamsters Union; with everybody they could think of. And we came forth with an amendment that I indicated earlier was not the first choice of anyone but it was a workable compromise, and would go a long way to solve this problem.

After having done all that, after having worked on this for months and months and months, after going through agonizing holds on this side of the aisle, after having been assured by Members on that side of the aisle time and time again, it is all clear over here, just get it cleared on the Democratic side, I was able to accomplish that this evening, really this morning, I tried to come over and get this bill introduced this morning, and passed. But at that time, of course, you know we were tied up on the debate on the START Treaty that was interrupted here only a few moments ago.

Mr. President, there are other matters that I would like to enter into the RECORD at this time. In addition to the matters that I have read, I ask unanimous consent to have a June 16 article by the Wall Street Journal printed in the RECORD.

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

FIGHT OVER FREIGHT—FAILED TRUCKING FIRMS ARE TRYING TO RECOUP DISCOUNTS THEY GAVE

(By Laurie McGinley and Daniel Machalaba)

If it were a Stephen King novel, it might be called "Dunning From the Living Dead."

Across the country, companies that ship products by truck have received letters from bankruptcy trustees for scores of trucking companies demanding reimbursement for steep price discounts once granted by the dead haulers. "It's like buying a car for $3,000 less than the sticker price and two years later getting a bill for $3,000," fumes Ron Rittenmeyer, a vice president of PepsiCo Inc.'s Frito Lay unit, which has already shelled out $100,000 to pay the so-called freight-undercharge claims.

The U.S. Supreme Court and a federal court in California have ruled many past discounts to be illegal. The Interstate Commerce Commission estimates that potential demands by lawyers for trucking companies, dead and alive, could cost shippers as much as $32 billion if the California ruling is upheld on appeal. The trustees say the ICC estimate is wildly exaggerated, but shippers charge that lawyers are using strong-arm tactics to try to squeeze out every dime for every transaction that might have been illegal under the decisions.

A TOUGH CHOICE

After Stanley Works, a tool maker, sent a lawyer for now-defunct PIE Nationwide Inc. $19,000 for outstanding freight bills last fall, for example, the estate's attorney returned the check uncashed. Then came an ultimatum: The New Britain, Conn., company could settle for $90,000 or face an audit of 32,000 old freight bills that might raise the total by $4 million. "Talk about high pressure," complains Harry Vosganian, Stanley's shocked transportation director. "They say, 'Pay us $90,000 now or $4 million later. It was ridiculous."

Lawyers for the trustees see it differently. Paul Taylor, a Bloomington, Minn., attorney who represents several defunct carriers, says critics "are viewing this from a moral standpoint. We are looking at it from a legal standpoint." Moreover, Lloyd Whitaker, PIE's trustee, describes the Stanley settlement offer as "a good deal" for Stanley. The trustees also say shippers are at fault for pressuring trucking companies for discounts that drove many of them into bankruptcy.

The Senate Commerce Committee will consider legislation today aimed at easing some of the shippers' problems. But the outlook for congressional action isn't bright on what has become one of the nastiest high-stakes business battles raging through the courts and Congress.

TEAMSTERS INVOLVED

Giving political muscle to the bankrupt trucking estates is the International Brotherhood of Teamsters, whose members, as well as employee health, welfare and pension funds, are owed tens of millions of dollars by deceased trucking outfits. Their opponents include hundreds of thousands of U.S. companies that ship goods and the ICC, whose chairman, Edward Philbin, has described the collection efforts as a "fur ball" in the agency's throat.

The stakes are huge. In a single case—that of the defunct Transcon Lines of Los Angeles—the trustee has sued more than 340,000 companies seeking hundreds of millions of dollars—possibly as much as $1 billion—in undercharge payments.

Major corporations are big targets for the trustees. American Telephone & Telegraph Co. has been hit for $4.5 million in undercharge claims, and Goodyear Tire & Rubber Co. for $6.8 million. A spokeswoman for General Motors Corp., the nation's biggest shipper, says trustees are "doing a wholesale dump" of claims on the auto maker. Bill Huie, director of corporate transportation at NCH Corp., an Irving, Texas, manufacturer of industrial maintenance products, says the trustees' demands are "nothing but an unethical and unwarranted grab for money that does not belong to them."

SMALL FIRMS HIT

Small businesses, which have limited budgets for attorney fees, also are being hit. They range from Industries for the Blind Inc. in Milwaukee, for $26,000, to Candle Artisans Inc. in Washington, N.J., for $8,600. Some say their very survival is threatened. Dale Miller, who manufactures playground equipment in New Berlin, Pa., faces a $500,000 claim from Transcon that he plans to fight in court. "Where am I going to come up with that kind of money?" asks Mr. Miller, who says he has already spent $30,000 on lawyers.

The undercharge battle grows out of the arcane world of trucking regulation dating back to 1935. Carriers file official freight rates in the form of tariffs with the ICC. They don't have to charge the official list prices, but they must file any discounted prices they do charge customers. The goal of the filed rate doctrine—which is a kind of "truth-in-shipping" mandate—is to allow all shippers to know what's being charged so everyone gets fair treatment.

In 1980, Congress deregulated the trucking industry, but only partly; it eliminated roadblocks to new competitors but retained the requirement that rates be filed at the com-

mission. New entrants flooded into the business, and many existing truck lines extended their reach. In the competitive fever—and under intense pressure from many shippers—carriers doled out discounts of 40%, 50% and more from official rates. Sometimes they didn't bother to file the discounts at the ICC. And they often filed the discounts but used numerical codes to identify their customers, a practice approved by the commission, whose officials say the codes aided computerization of rates.

Strained by the new competition, thousands of trucking companies failed. When trustees for scores of the companies discovered that discounted rates had never been filed with the ICC, they began trying * * * those rates were the only ones on file. The ICC barred the collections as an "unreasonable practice," a move denounced by bankruptcy trustees as a ploy by deregulation-minded commissioners to undermine the filed-rate doctrine.

Then, in 1990, in a decision that shocked shippers, the Supreme Court decided that the unfiled rates were illegal and that the estates were entitled to the full rates. But the resulting litigation was only a ripple compared with what was to come.

CALIFORNIA DECISION

Last November, a federal district court judge in California agreed with the Transcon trustee that even the tariffs filed at the ICC were invalid. Judge Irving Hill ruled that because Transcon used coded entries without a key to decipher them, it was, in effect, making secret agreements in violation of the filed-rate doctrine. The ICC has appealed the ruling.

Judge Hill's decision sparked an explosion of claims. It includes Transcon's filing of the lawsuits against 340,000 companies, although the serving of the complaints has been stayed pending an appeals-court decision. It also threw the collection efforts of PIE, the defunct Jacksonville, Fla., trucking company, into higher gear. Mr. Whitaker, the PIE trustee, says the estate already has sent balance-due notices totaling more than $300 million in undercharges. Shippers' attorneys fear the amount could go as high as $1 billion.

The PIE estate sent coded shippers dunning letters saying a federal court had ruled "substantially similar tariffs are unlawful." But the letters didn't note that the decision was being appealed. "It makes it sound as though this is settled law, and it's not," says Richard Felder, an ICC official.

Teams of auditors and collection attorneys for failed trucking companies are poring over stacks of old freight records—more than 25 million at PIE alone—to identify potential undercharge claims. Besides pressing legal theories to expand their claims, many estates hire collection teams on hefty contingency fees that consume a lot of the money brought in.

LAWYERS' TACTICS CRITICIZED

Fueling the controversy are the tactics of some lawyers involved in the cases. After Judge Hill's decision on the shipper codes, Christopher Ashworth, a Los Angeles attorney who was working for Transcon, wrote some shippers saying that, in light of the ruling, their account might be reaudited to disallow all discounts from May 1987 until the spring of 1990, when Transcon went out of business. He gave "random" examples of how the claims might increase; one showed a rise to $29,000 from $1,200.

"What he was doing was playing with figures for the purpose of browbeating people into paying up," says Mary Kay Reynolds, a Los Angeles attorney who is defending hundreds of shippers against the undercharge claims. Ms. Reynolds, in filings in a California appeals court, says Mr. Ashworth bragged that the harshly worded letter was getting results, "since checks were coming in and piling up two feet on his paralegal's" desk.

Leonard Gumport, the Transcon trustee, declines to comment other than to say that in February Mr. Ashworth withdrew from the case by mutual agreement and has been replaced by Joseph Steinfeld, a Washington attorney. Mr. Ashworth didn't respond to telephone calls seeking comment, but David Epstein, a partner at his law firm, says the record shows that "the trustee and counsel acted properly."

Many shippers complain about what they see as a breach of faith. In September 1990, Al De Benny, then a PIE account manager, seemed to arrive with good tidings at the loading dock of one of his customers, Paratherm Corp. * * * Paratherm's maximum discount off published tariff rates to 50% from 48%, Mr. De Benny informed John Fuhr, Paratherm's president. "I was trying to reward him for giving us the business," Mr. De Benny says. "He could have gotten that discount from the larger carriers, but he hung in with us."

But last April, Paratherm, a manufacturer of heat-transfer fluid, was served with a lawsuit brought by the PIE estate. The suit alleged that the discounts were illegal and demanded that Paratherm pay $21,232.96 in balance-due bills.

"This is a real scourge," says Mr. Fuhr, who plans to fight the suit in U.S. Bankruptcy Court in Jacksonville. "We don't know from one minute to the next if the sheriff will attach our forklift or inventory * * *."

* * * The trustees and their lawyers deny being unfair. They contend that they won't put any company out of business, but that the shippers, especially big ones, are far from innocent. "The shippers thought they got a bargain and now they are having to pay the piper and they don't like it," Mr. Whitaker, the PIE trustee, says.

The carnivorous approach by some shippers during the 1980s also hurt the workers, the Teamsters say. More than 160,000 Teamsters members lost jobs because of bankruptcies following the partial deregulation of the industry, and many haven't been hired by other carriers, the union says.

"Recovery of these undercharges represents the only realistic chance of the former employees of bankrupt motor carriers to recover any of their unpaid wages and severance pay owed them, not to mention the retirement pay they worked for all their lives," says Ronald Carey, general president of the Teamsters. In the Tanscon case alone, the former employees are owed more than $23 million in back wages and vacation pay, while the pension, health and welfare funds are owed another $20 million.

Even some shippers believe their colleagues are paying the price for their aggressive playing of trucker against trucker to get lower rates. E.D. Root, director of logistics at the Libbey-Owens-Ford subsidiary of Pilkington PLC, says, "All they could see was price reduction, and they didn't do their financial homework to determine the financial stability of the carrier. In a sense, they brought it on themselves."

Mr. Root says he avoided all but a handful of undercharge claims by slashing the list of truck carriers doing business with Libbey-Owens-Ford to only three (of the largest and strongest truck lines) from 543 five years ago. He says that some 40 of the lines that used to haul freight for the Toledo, Ohio, company have failed. Many other shippers now are switching their freight to contracts, which don't have to be filed at the ICC, and are requiring more documentation from carriers.

ICC CRITICIZED

The trustees castigate the ICC as well, saying its scorn of regulation inspired shippers and carriers to ignore the law. Now, the trustees say, the ICC is trying to block their legitimate collection efforts. The lawyers also say the ICC is trying to scare people into thinking the problem is bigger than it is. The $32 billion liability estimate "is so ludicrous as to be hallucinogenic," says Mr. Steinfield, the Transcon attorney.

ICC officials dismiss the argument that they unwittingly brought on the undercharge mess by refusing to enforce regulations. "We must rely on voluntary compliance" with tariff rules, Chairman Philbin says. "We can't send an enforcement agent into every one of the offices" of thousands of carriers.

The trustees also contend the shippers pressured the carriers to switch to codes to hide discounts. But many shippers say that they didn't even realize they had a code and that, even if they had, they wouldn't have thought much about it, given the ICC's endorsement of the practice.

Others say they are being dunned for things they never shipped. American Electronic Components Inc., of Elkhart, Ind., says PIE initially claimed $4,000, saying the company got too big a discount because the product shipped was actually semiconductors, which command a higher rate, and not electrical switches, as slated in the tariff. "But we have never even produced semiconductors, so we couldn't possibly have shipped them," says George Bucklen, the company's secretary.

Some shippers say they are even being billed by mistakes made by the former carrier. PIE gave Dillard Department Stores Inc. a 57% discount, according to James Cherry, assistant general counsel for the Little Rock, Ark, retailer, but erred in its filing with the ICC, saying Dillard was getting a 47% discount. Now PIE's attorneys are dunning Dillard $350,000 for the difference. "It wasn't our fault," says Mr. Cherry.

* * * truck operations without going bankrupt and sent out balance-due bills to its customers. For several months in the fall of 1990. A-Line Ltd, a Philadelphia trucking outfit owned by L. Robert Tannenbaum, sent out claims to some customers in the Midwest and on the West Coast while still soliciting freight business from other customers. "Once it got to Philadelphia that we were billing people [for undercharges], it was a one-way street to going out of business," says Stephen Leib, former vice president of sales of A-Line.

Soon, A-Line was involved almost totally in filing undercharge claims. "A-Line stopped operating a truck company and became a factory for undercharge billings," says Mr. Leib, who left A-Line in October 1990. He denies any involvement in the undercharge claims and has since helped his former customers defend themselves against A-Line's claims. "It was like an assembly line. They printed the bills, packaged them and sent them out," he says.

Harvey Luterman, an attorney who has represented A-Line against shipper countersuits, says, "A-Line was doing what

it was supposed to do under the law." He says that the approximately $1.1 million A-Line has collected in claims so far will help pay $4.5 million owed its creditors, not enrich Mr. Tannenbaum.

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

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

Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I rise to offer an amendment in the nature of a substitute to S. 1675, the Undercharge Equity Act of 1992. Over the past several years, the escalating undercharge crisis facing our Nation's trucking industry has eroded the competitiveness of carriers, shippers, and labor alike. The blizzard of legal claims against shippers based on the unfiled or allegedly unlawful past tariff rates of a number of major trucking companies now in bankruptcy has consumed tremendous institutional resources in both the public and the private sectors. In comparison to the heavy burden imposed on the Nation's businesses, our courts and the Interstate Commerce Commission [ICC], this sharp dispute has apparently yielded little recovery to out-of-work trucking company employees, underfunded pension funds, and other creditors seeking recovery of undercharge claims.

The legislation I am offering today is in the nature of a substitute to S. 1675, the Undercharge Equity Act of 1992, reported by the Commerce Committee earlier this year. I very much appreciate the continued commitment of Senator KASTEN, the ranking member of the Surface Transportation Subcommittee, and Senator BURNS to passing remedial undercharge legislation, as well as the more recent contribution of Senators ADAMS and WELLSTONE in forging the compromise bill we now consider.

As submitted, the substitute amendment to S. 1675 would establish a statutory procedure for resolving eligible undercharge disputes and will promote equitable settlement of such claims. I would note that the subcommittee first held a hearing on this subject in July 1990, less than a month after the Supreme Court decision in Maislin Industries versus Primary Steel which invalidated the ICC's then-current policy holding undercharge claims to be an unreasonable practice under the Interstate Commerce Act. Following that hearing, I introduced S. 2933, in the 101st Congress, to resolve the undercharge issue. The Commerce Committee promptly reported this legislation to the full Senate, but Congress adjourned before voting on the matter despite my efforts to secure passage.

In the 102d Congress, I again introduced undercharge legislation, S. 1675, cosponsored by Senators KASTEN and BURNS. In September 1991, the Surface Transportation Subcommittee held a hearing on the economic regulation of the motor carrier industry, and the subcommittee heard further testimony on the growing extent of the undercharge problem and on various proposed legislative solutions in addition to S. 1675. After extended discussions among all affected parties, the Commerce Committee considered, at its executive session on June 16, 1992, an amendment in the nature of a substitute to S. 1675 and ordered the measure reported by voice vote, without objection.

The substitute amendment establishes a statutory procedure for resolving disputes resulting from efforts by trustees for bankrupt motor carriers or nonhousehold goods forwarders to collect additional amounts for past transportation provided, in certain instances where the agreed-upon rate or charge was not properly or timely filed in a tariff with the ICC as required under the Interstate Commerce Act. The legislation treats small shippers, defined as concerns meeting Small Business Administration [SBA] criteria specially, by absolving them of all undercharge liability for claims meeting the threshold standard established.

For shippers not meeting the applicable SBA criteria, the substitute amendment permits these larger business concerns to satisfy applicable undercharge claims pursuant to a statutory formula, depending upon whether the shipment at issue was a less-than truckload [LTL] shipment of 10,000 pounds or less, or a truckload [TL] shipment of more than 10,000 pounds. For LTL shipments, the amendment permits the shipper to satisfy the applicable undercharge claim by payment of 20 percent of the difference between the carrier's or forwarder's legally applicable tariff rate or charge and the rate or charge originally billed and collected. TL shippers may similarly satisfy applicable undercharge claims by payment of 10 percent of this difference.

The substitute amendment preserves existing statutory rights and remedies of shippers, who may decline to satisfy the under charge claim sought pursuant to the formula and instead challenge the reasonableness of the legally applicable rate or charge being claimed in addition to the rate or charge originally billed and collected. The ICC shall determine such reasonableness challenges within one year after such challenge. The substitute amendment also requires the ICC to resolve disputes concerning legally applicable rates within one year after the dispute arises.

When a shipper proceeds under a rate reasonableness challenge, the amendment requires that shipper to post a surety bond or establish an interest bearing escrow account in the amount of the otherwise applicable statutory settlement amount—20 percent of the under charge sought for LTL claims; 10 percent of the undercharge sought for TL claims. No further payment from the shipper shall be due until the ICC resolves the pending reasonableness challenge. The substitute amendment establishes a 2-year statute of limitations—reduced to 18 months 1 year after enactment on the filing of undercharge claims and provides for the future sunset of the undercharge resolution procedure.

The undercharge litigation crisis admits of no easy solutions. It is a complicated issue now being fought out—expensively and unproductively—in the ICC and in the courts. The substitute amendment I am offering today results from an extended dialog on the undercharge issue in the Commerce Committee and among the Members of this body and represents a fair and equitable solution to this difficult problem. Let us put the undercharge disputes now raging behind us. I urge my colleagues to join me in voting to approve this important measure.

Mr. KASTEN. I am pleased to join with Senators EXON and BURNS in moving forward on this legislation to solve the problems associated with unfiled tariff rates in the trucking industry. It should be noted, however, that there is another issue related to the undercharge crisis looming on the horizon that may require the Senate's attention. Bankruptcy trustees in California and Florida have argued that the trustee for a bankrupt trucking company can unilaterally invalidate its own tariffs filed with the Interstate Commerce Commission [ICC] in order to collect additional money from shippers. These claims are against shippers who, in good faith, entered agreements that they thought were entirely proper under the law and ICC rules. I would like to ask the chairman of the Surface Transportation Subcommittee, Senator EXON, if he has any thoughts about this issue.

Mr. EXON. The substitute addresses undercharge claims resulting from tariff rates or charges not timely or properly filed. I understand that in a number of instances, motor carrier bankruptcy trustees have asserted that coded rates in a carrier's tariff legally filed at the ICC were unlawful and therefore invalid. I am aware that the Ninth Circuit Court of Appeals partially reversed a lower district court in the Transcon Lines case, ruling that carriers, or their bankruptcy trustees, lacked standing to pursue any retroactive remedy based on the filing of an allegedly unlawful rate. The parties in that case have appealed this decision,

and trustees in other cases, including the P*I*E Nationwide case in Jacksonville, FL, are pursuing similar theories and billing shippers in an attempt to collect additional undercharges beyond those already sought for unfiled rates.

Mr. KASTEN. as you have noted, the substitute amendment to S. 1675 as reported by the committee provides a mechanism for resolving claims involving rates that were not properly or timely filed. The theory being pursued by the bankruptcy trustee in the Transcon case is that coded tariffs are not duly filed, that is, were not properly or timely filed. Thus, I believe the bill, as amended, addresses these types of claims, including challenges to coded tariffs. Does the senior Senator from Nebraska share this view?

Mr. EXON. Yes, I agree with my colleague from Wisconsin on this point.

Mr. KASTEN. I would also like to inquire about the treatment of small shippers and large shippers in this legislation. It is my understanding that small shippers, as defined in the bill, would be entirely exempt from paying undercharge claims. Shippers not meeting the small shipper criteria would have the option of settling these claims for 10 percent of the amount claimed on truckload shipments and 20 percent of the amount claimed for less-than-truckload shipments. No shipper would be required to settle a case for any amount. Rather, shippers would have the option of pursuing their cases before the ICC. Is that your understanding?

Mr. EXON. That is correct. We have taken care to preserve a shipper's right to pursue before the ICC all rights and remedies existing under current law.

Mr. KASTEN. Thank you for clarifying those issues.

Mr. EXON. Mr. President, we have been awaiting word while I have been discussing this measure from Senators who are off of the Senate floor somewhere, to see if we can possibly get the hold lifted. I must say that that is out of the question as of now. Senators have placed holds on bills and gone off somewhere else to do their thing. They know full well that when you do that, you tie up the Senate.

I guess I can stand here and talk all night if I thought it would help the cause. But, thus far, it has not. There are further negotiations, I understand, going on now about the measure, and we intend to have discussions on this during, before, and after the rollcall vote that is scheduled for 9 a.m. in the morning.

With that understanding, then I think little more can be accomplished tonight, except that I hope that maybe someone will read in the RECORD the statements that I have made here tonight and the additional material that has been added thereto. I hope that all of the Senators will recognize that particularly there are small businessmen all over the United States who are crying out to see whether or not the U.S. Senate is able to stand up for those small business interests, or whether they just do not care.

Therefore, I think it best if we put this off until tomorrow. I will be trying again to get a unanimous-consent on this. I have no quarrel whatsoever with bringing it to a vote, if we can bring it to a vote. But everybody should understand you cannot have a vote on a measure until the measure is allowed to be presented at the desk, so that it is formally before the body.

That is impossible at this time. I will make every effort in the morning to try and straighten this out. Hopefully, we will, in an expeditious fashion, pass the measure before additional holds are placed on the bill.

ANNUAL REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES—MESSAGE FROM THE PRESIDENT—PM-281

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Small Business:

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2(j)), I transmit herewith the 15th annual report of the National Institute of Building Sciences for fiscal year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *September 29, 1992.*

ANNUAL REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT—PM-282

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Small Business:

To the Congress of the United States:

It is my pleasure to submit my third annual report on the state of small business. America's small business owners are individuals with countless new ideas, employers and workers who produce a vast array of goods and services, taxpayers who pay many of the bills, and economic pioneers who help decide the future direction of our economy. In their endless variety, small firms help create a flexible, diverse, and lively marketplace.

For generations, entrepreneurial business owners have been in the forefront of the dynamic economic changes that continually revitalize our democracy. In the early days of our Republic, small business innovators led the way in developing more productive farming technologies. Greater agricultural productivity eventually freed other entrepreneurs to develop and commercialize new manufacturing processes. These processes and manufactured products set a new standard for America—and for the world. But America's small business innovators did not stop there. They started another revolution by anticipating and responding quickly to the demands that grew out of the new, higher standard of living—demands for services and sophisticated new information technologies.

Small businesses have made important contributions to the economy, not only by introducing new products and processes and creating jobs, but also by making the economy more adaptive and flexible—by retaining workers longer during recessions and hiring workers earlier as expansions begin.

There is no doubt that 1991 was not an easy year for the American economy or for small business. The recession that began in the third quarter of 1990 carried over into 1991. Business formation rates were down, and business closings were up. The flow of financing slowed as banks and businesses grew more cautious about business expansions.

Yet in this recession, as in other economic downturns, small businesses continued to function as a source of jobs, creating many of the new jobs in the economy. Rather than lay off workers, many small firms tightened their belts in other areas. And they continued to innovate, introduce new products, and contribute to their communities.

Our economy has begun to grow again. Still, small firms face difficult challenges in the months and years ahead. The truth is that health care costs are too high and the unmet need for health coverage is great in small businesses. And of all employers, small businesses are least able to afford the expensive mandates that have been advocated by some. The proposal I presented to the Congress would not resort to mandates, but would build on the strengths of our private health care system to make health insurance affordable for America's workers and their families.

Adjustments occurring in our financial institutions have made it difficult for many worthy small businesses to find the capital they need to start up or expand. Therefore, my Administration is taking steps to encourage investment in business ventures in a number of ways. I have proposed that the Congress cut the capital gains tax so that investors will have an incentive to buy into new ventures. Another proposal I have made is to create an investment tax allowance that would assist in starting new firms.

And we can encourage some new investment by adapting programs that

are already underway. For example, the Small Business Administration is working with banks to implement innovative loan programs that are channeling funds to smaller firms in some of the most economically depressed areas.

Another obstacle that can stand in the way of small firm growth is too much regulation. My Administration this year instituted a moratorium on new Federal regulations to give Federal agencies a chance to review and revise their rules. And we are looking at ways to improve our regulatory process over the long term so that regulations will accomplish their original purpose without unduly hindering economic growth.

We also need to encourage innovation—such as that exhibited by thousands of small high technology firms—by making the research and experimentation tax credit permanent. My Administration is committed to exploring the promise of new technologies.

This report documents the increasing, healthy diversity of our small business community, as minority- and women-owned businesses enter the marketplace in record numbers. I want to keep encouraging that diversity through our Federal procurement programs.

I also want to see more of the Nation's economically depressed communities reap the benefits of business growth. To that end, I have asked the Congress to pass my enterprise zone legislation, which will provide incentives to businesses that start up in specially designated areas, particularly in inner cities.

Looking to the future, it is clear that we need to improve our educational system so that America's workers, particularly in small firms, will be in a better position to compete in a more and more sophisticated global marketplace. My America 2000 education strategy is designed to give parents, teachers, and communities more freedom and flexibility in designing education programs to meet their needs—and to make America the world's leader in education.

Many of these proposals for economic recovery and growth are being enacted now; others will require action by the Congress. I am committed to working with the Members of Congress to develop and enact a broad economic plan we can all live with. These combined actions will help small business to move ahead to create the economic revolutions that will lead us into the 21st century.

GEORGE BUSH.

THE WHITE HOUSE, *September 29, 1992.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 5:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1435. An act to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior.

H.R. 2967. An act to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National 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.

H.R. 5428. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

H.R. 5630. An act to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes.

At 6:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 1880. An act to amend the District of Columbia Spouse Equity Act of 1988;

S. 3007. An act to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center; and

S. 3095. An act to restore and clarify the Federal relationship with the Jena Band of Choctaws of Louisiana.

The message also announced that the House has agreed to the following concurrent resolutions, each without amendment:

S. Con. Res. 112. A concurrent resolution to authorize printing of "Thomas Jefferson's Manual of Parliamentary Practice", as prepared by the Office of the Secretary of the Senate; and

S. Con. Res. 127. A concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The message also announced that the House has passed the bill (S. 1530) to authorize the integration of employment, training, and related services provided by Indian tribal governments; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 792. An act to reauthorize the Indoor Radon Abatement Act of 1988, and for other purposes; and

S. 1392. An act to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

S. 2588. An act to provide for the conservation and management of Weakfish, and for other purposes;

S. 3475. An act to assist business in providing women with opportunities in apprenticeship and nontraditional occupations;

S. 3476. An act to establish the Commission on the Advancement of Women in the Science and Engineering Work Forces;

S. 3703. An act to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes;

H.R. 4096. An act to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia;

H.R. 4281. An act to designate the Federal building and courthouse at 5th and Ross Streets in Santa Ana, California, as the "Ronald Reagan Federal Building and Courthouse";

H.R. 5486. An act to clarify the law enforcement authority of law enforcement officers of the United States Fish and Wildlife Service;

H.R. 5555. An act to provide for increased preinspection at foreign airports, to make permanent the visa waiver pilot program, and to provide for expedited airport immigration processing;

H.R. 5605. An act to authorize and direct land ownership consolidation in the Cedar River Watershed, Mt. Baker-Snoqualmie National Forest, Washington;

H.R. 5809. An act to authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, Washington;

H.R. 5822. An act to designate the United States Court of Appeals Building located at 125 South Grand Avenue in Pasadena, California, as the "Richard H. Chambers United States Court of Appeals Building";

H.R. 5831. An act to designate the Federal building located at Main and Church Streets in Victoria, Texas, as the Martin Luther King, Jr. Federal Building";

H.R. 5874. An act to establish a Wetlands Center at the Port of Brownsville, Texas, and for other purposes;

H.R. 5954. An act to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policies, and for other purposes;

H.R. 5983. An act to establish in the Government Printing Office a means of enhancing electronic access to a wide range of Federal electronic information;

H.R. 5990. An act to amend the Federal Water Pollution Control Act to provide for assessments of contaminated sediments at areas of concerns in the Great Lakes, and for other purposes;

H.R. 6000. An act to redesignate Springer Mountain National Recreation Area as "Ed Jenkins National Recreation Area"; and

H.R. 6014. An act to designate certain land in the State of Missouri owned by the United

States and administered by the Secretary of Agriculture as part of the Mark Twain National Forest.

At 8 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to clause 6(f) of rule X, the Speaker makes the following appointments to fill vacancies occasioned by the death of Representative Jones of North Carolina in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 429) entitled "An Act to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes":

As an additional conferee from the Committee on Merchant Marine and Fisheries, for consideration of titles II through VI, IX, XXX, and XXXIV of the House amendment to the Senate amendment, and titles II through VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment to the House amendment to the Senate amendment, and modifications committed to conference: Representative LIPINSKI.

As an additional conferee from the Committee on Merchant Marine and Fisheries for consideration of titles I, VII, XI, and XVIII through XX of the House amendment to the Senate amendment, and titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment to the House amendment to the Senate amendment, and modifications committed to conference: Representative HUGHES.

The message also announced that pursuant to clause 6(f) of Rule X, the Speaker makes the following appointments to fill vacancies occasioned by the death of Representative Jones of North Carolina in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776) entitled "An Act to provide for improved energy efficiency":

As an additional conferee from the Committee on Merchant Marine and Fisheries, for consideration of title XXIV and section 1607 of the House bill, and title XII of the Senate amendment, and modifications committed to conference: Representative CARPER.

As an additional conferee from the Committee on Merchant Marine and Fisheries, for consideration of sections 205, 1602, and 1701(b) of the House bill, and title XXI and sections 5204, 5302, 5304, and 11103 of the Senate amendment, and modifications committed to conference: Representative HUGHES.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4481. An Act to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the reserve components, and for other purposes;

H.R. 5118. An Act to exchange lands within the State of Utah, between the United States and the State of Utah;

H.R. 5548. An Act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico;

H.R. 5853. An Act to designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System;

H.R. 5906. An Act to regulate advertising and related commercial activities on the National Park System, and for other purposes; and

H.R. 6004. An Act to amend the Federal Water Pollution Control Act to extend the deadline by which permits for discharges for municipal and industrial stormwater discharges are required until October 1, 1994.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2588. An act to provide for the conservation and management of Weakfish, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3475. An act to assist business in providing women with opportunities in apprenticeship and nontraditional occupations; to the Committee on Labor and Human Resources.

H.R. 3476. An act to establish the Commission on the Advancement of Women in the Science and Engineering Work Forces; to the Committee on Commerce, Science, and Transportation.

H.R. 3703. An act to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes;

H.R. 4096. An act to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia; to the Committee on Governmental Affairs.

H.R. 4281. An act to designate the Federal building and courthouse at 5th and Ross Streets in Santa Ana, California, as the "Ronald Reagan Federal Building and Courthouse"; to the Committee on Environmental and Public Works.

H.R. 4481. An act to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the reserve components, and for other purposes; to the Committee on Armed Services.

H.R. 5486. An act to clarify the law enforcement authority of law enforcement officers of the United States Fish and Wildlife Service; to the Committee on Environment and Public Works.

H.R. 5548. An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico; to the Committee on Energy and Natural Resources.

H.R. 5555. An act to provide for increased preinspection at foreign airports, to make permanent the visa waiver pilot program, and to provide for expedited airport immigration processing; to the Committee on the Judiciary.

H.R. 5605. An act to authorize and direct land ownership consolidation in the Cedar River Watershed, Mt. Baker-Snoqualmie National Forest, Washington; to the Committee on Energy and Natural Resources.

H.R. 5809. An act to authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, Washington; to the Committee on Environment and Public Works.

H.R. 5822. An act to designate the United States Court of Appeals Building located at 125 South Grand Avenue in Pasadena, California, as the "Richard H. Chambers United States Court of Appeals Building"; to the Committee on Environment and Public Works.

H.R. 5831. An act to designate the Federal building located at Main and Church Streets in Victoria, Texas, as the "Martin Luther King, Jr. Federal Building"; to the Committee on Environment and Public Works.

H.R. 5874. An act to establish a Wetlands Center at the Port of Brownsville, Texas, and for other purposes;

H.R. 5906. An act to regulate advertising and related commercial activities in the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5954. An act to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policies, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5983. An act to establish in the Government Printing Office a means of enhancing electronic access to a wide range of Federal electronic information; to the Committee on Rules and Administration.

H.R. 5990. An act to amend the Federal Water Pollution Control Act to provide for assessments of contaminated sediments at areas of concerns in the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

H.R. 6000. An act to redesignate Springer Mountain National Recreation Area as "Ed Jenkins National Recreation Area"; to the Committee on Energy and Natural Resources.

H.R. 6004. An act to amend the Federal Water Pollution Control Act to extend the deadline by which permits for discharges for municipal and industrial stormwater discharges are required until October 1, 1994; to the Committee on Environment and Public Works.

H.R. 6014. An act to designate certain land in the State of Missouri owned by the United States and administered by the Secretary of Agriculture as part of the Mark Twain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3282. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5118. An act to exchange lands within the State of Utah, between the United States and the State of Utah; and

H.R. 5853. An act to designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, which was referred as indicated:

EC-3965. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Comprehensive Report to Congress Clean Coal Technology Program, Self-Scrubbing Coal: An Integrated Approach to Clean Air"; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 20. A bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes (Rept. No. 102-429).

• Mr. GLENN. Mr. President, improving governmental performance and accountability is very important, particularly in these times of public distrust and dissatisfaction with Government. Thus, I am pleased to rise today to ask my colleagues support for S. 20, the Government Performance and Results Act of 1992.

This legislation comes to the Senate from the Governmental Affairs Committee, which I chair, as the Glenn-Roth substitute for a bill originally offered by my good friend Senator ROTH, the ranking minority member of the Governmental Affairs Committee. The notion of performance measurement, however, is certainly not new. The Chief Financial Officers Act of 1990, which I view as one of my major legislative accomplishments as chair of the Governmental Affairs Committee, mandates the systematic measurement of performance. The current legislation builds on that mandate to establish a concrete set of steps to make performance measurement a reality.

The present legislation is based on a year of very productive work:

The committee has held two informative hearings;

GAO has studied performance measurement in Federal Agencies and in other countries—in Canada, Britain, Australia, and New Zealand;

OMB has surveyed State and local governments, initiated inter-agency task forces and pilot projects, and through the CFO Act, has begun requiring that agencies develop and report on performance measures; and

Other agencies, OMB staff, the National Academy of Public Administration, and a number of academic experts have also consulted with committee staff on this issue.

Out of this effort, we have arrived at what I think is an excellent bill to start developing a workable system for holding Government accountable for program results.

The American people have a right to know what they are getting for their tax dollars. With performance measurement, I believe we can start showing the public how that money is spent—and how it could be better spent. Considering the country's growing dissatisfaction with the Federal Government, this is a worthy goal for us—in Congress, and in the Governmental Affairs Committee.

The bill creates a step-by-step process to implement performance measurement. Step one is the development of multiyear strategic plans which will define the broad mission and objectives of the agencies and their programs. Step two is the preparation of annual performance plans which will detail how the agencies will measure the performance of their programs and what target levels of performance they will be striving to achieve. Step three is the submission of annual performance reports, in which the agencies will explain whether they have met their target levels and, if not, why not. And step four will test whether program performance and accountability can be increased through increased management flexibility and through performance-based budgeting. These steps will take place over the next 10 years, first through pilot projects, and then once Congress approves their continued use, they will continue on a permanent basis.

This step by step process will take place with due deliberation and evaluation and should give us all—agencies, OMB, Congress, and the American public—ample opportunity to assess the value of performance measurement.

I know OMB and GAO are excited about performance measurement, and I believe the American people will be pleased when they see what this legislation delivers—objective understandable information about how the American taxpayer's money is spent.

Let me touch on a provision the bill does not contain—that is the requirement of qualification standards for political appointee positions.

While I believe S. 20 provides the framework to make government more effective, I think its success will depend, to a large extent, on the quality of the people who will be directing this effort. In the vast majority of cases, these people will be political appointees. Many of them, unfortunately, will lack the qualifications necessary to successfully discharge this and other responsibilities. I believe that this is a significant problem. Without top-notch people in place to direct performance measurement, you will never achieve the meaningful reforms this bill hopes to foster—making Government more responsive and accountable to the public.

I see this issue as one of the key problems facing Government today, one which has contributed to the erosion of public faith and confidence in the workings of our system. I know first-hand, from meetings with my fellow Ohioans, that there is a pervasive distrust of Government, as a capable and competent institution, able to effectively respond to the concerns Americans have. Incidents like the HUD scandal, where certain high-level appointees who, by their own admission, had no housing skills whatsoever, used the public exchequer to reward political cronies, only serve to further undermine Government's credibility and integrity.

That is why I feel it is important to address the issue of political appointee qualifications, and help ensure that those who administer the public trust meet basic standards of competence and relevant experience. That's the least the American people deserve from Government, and should rightfully expect.

During the committee's review of S. 20, I had considered offering an amendment to make public the position descriptions and qualification requirements for certain top policy-making political positions. I have been assured by the White House Office of Presidential Personnel and the Office of Personnel Management that position descriptions and qualifications requirements do exist and are used in selecting candidates for appointive positions. In fact, I have seen some of these samples. It makes sense, then, that if this is being done already, why not make them public? In that manner, all can see what duties are attached to these positions, and what qualifications are required to carry out those duties.

Having this information available in a central place would be useful to this and future administrations in finding and screening candidates. It would help our citizens assess the performance of their appointive, but non-elected, officials.

After some thought on this, however, and recognizing that this debate was, unfortunately, turning partisan in nature, I withdrew this amendment. I did not want to jeopardize all that we had worked out on S. 20.

I intend to revisit both the issues of Government reform and political appointees next year. To me, the two are intertwined. And while S. 20 takes a first step, we will look at broader and more comprehensive solutions next Congress.

So while I feel that there is more to be done, I am very pleased that we

have been able to work out the differences and report out this very important piece of legislation. The legislation before the Senate today provides an excellent first step at fleshing out the performance measurement requirements in the chief financial officers act and at getting Government on the road to measuring up to its goals and purposes. It has the potential to encourage meaningful improvements in Government performance and to begin to restore the confidence of the American people in their Government. Mr. President, I would urge its favorable consideration by the Senate.

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 5643. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses (Rept. No. 102-430).

By Mr. BOREN, from the Select Committee on Intelligence:

Special report entitled "Capability of the United States to Monitor Compliance with the START Treaty" (Rept. No. 102-431).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 1879) to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes (Rept. No. 102-432).

Report to accompany the bill (S. 2397) to expand the boundaries of Yucca House National Monument in Colorado, to authorize the acquisition of certain lands within the boundaries, and for other purposes (Rept. No. 102-433).

Report to accompany the bill (H.R. 2859) to direct the Secretary of the Interior to conduct a study of the historical and cultural resources in the vicinity of the city of Lynn, Massachusetts, and make recommendations on the appropriate role of the Federal Government in preserving and interpreting such historical and cultural resources (Rept. No. 102-434).

Report to accompany the bill (S. 1990) to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, Washington (Rept. No. 102-435).

Report to accompany the bill (S. 2749) to grant a right of use and occupancy of a certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange, and for other purposes (Rept. No. 102-436).

Report to accompany the bill (S. 2577) to provide for the exchange of certain Federal lands within the State of Utah, between the State of Utah and the Secretary of the Interior (Rept. No. 102-437).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2006. A bill to establish the Fox River National Heritage Corridor in Wisconsin, and for other purposes (Rept. No. 102-438).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 492. A bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes (Rept. No. 102-439).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

S. 3157. A bill to provide for a National Native American Veterans' Memorial (Rept. No. 102-440).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments and an amendment to the title:

H.R. 2144. A bill to provide restoration of the Federal trust relationship with and assistance to the terminated tribes of California Indians and the individual members thereof; to extend Federal recognition to certain Indian tribes in California; to establish administrative procedures and guidelines to clarify the status of certain Indian tribes in California; to establish a Federal Commission on policies and programs affecting California Indians; and for other purposes (Rept. No. 102-441).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2977. A bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes (Rept. No. 102-442).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

S. 3155. A bill to establish the National Indian Policy Research Institute (Rept. No. 102-443).

S. 3237. A bill to amend the Indian Self-Determination and Education Assistance Act (Rept. No. 102-444).

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. BOND:

S. 3283. A bill to suspend temporarily the duties on Pentetreotide in bulk form and lypholized kit form; to the Committee on Finance.

By Mr. ADAMS (for himself and Mr. GORTON):

S. 3284. A bill to authorize United States participation in the Cascadia Corridor Commission; to the Committee on Foreign Relations.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. GRAHAM, Mr. MACK, Mr. BREAUX, Mr. INOUYE, and Mr. AKAKA):

S. 3285. A bill to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SEYMOUR:

S. 3286. A bill to amend the Endangered Species Act of 1973 to provide for a loan program for States and political subdivisions of States; to the Committee on Environment and Public Works.

By Mr. FORD:

S. 3287. A bill to authorize the construction of the Cumberland Mountain Trail in the State of Kentucky and the State of Virginia, to require a study of the establishment of the Cumberland National Recreation Area, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRYOR (for himself and Mr. GRAHAM):

S. Res. 353. A resolution expressing the sense of the Senate the Democratic and Republican Presidential candidates and Vice Presidential Candidates should debate before the election of November 3, 1992; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ADAMS (for himself and Mr. GORTON):

S. 3284. A bill to authorize U.S. participation in the Cascadia Corridor Commission; to the Committee on Foreign Relations.

UNITED STATES PARTICIPATION IN THE CASCADIA CORRIDOR COMMISSION

• Mr. ADAMS. Mr. President, I am pleased to introduce, along with Senator GORTON, legislation authorizing the establishment of a Cascadia Corridor Commission. Similar legislation was introduced in the House last Friday by the Washington delegation and Representative RON WYDEN of Oregon.

The goal of the Commission will be to coordinate planning by State, local, provincial and Federal officials that affects the urban corridor along Interstate 5 and Highway 99. This corridor runs from Vancouver, BC to Eugene, OR.

Over the past decade, and in particular since the signing of the United States-Canada Free-Trade Agreement, the volume of commerce and traffic along I-5/Highway 99 has greatly increased. Numerous regional associations have sprung up among the Pacific Northwest States and the bordering Canadian Provinces, looking at a variety of trade and cultural issues. None of the existing organizations, however, has the breadth of focus or the degree of government involvement that the Cascadia Commission will.

The strength of the Cascadia Commission concept will be its mandate to explore regional coordination across a variety of related disciplines: trade, environment, transportation, and urbanization. The membership of the Commission will include private citizens as well as Federal, State, Provincial and local officials from Oregon, Washington, and British Columbia. It will be an advisory panel and will have no legal authority.

It is vitally important that decisionmakers in the Pacific Northwest begin to work more closely with their Canadian counterparts. Environmental quality, transportation infrastructure, trade and communications are truly transborder issues in our region and should be treated as such.

I commend the work of our colleagues in the House in moving the

Cascadia Corridor Commission concept forward and hope that the Senate will also be able to approve legislation authorizing the Commission before we recess for the year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3284

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

SECTION 1. AUTHORIZATION OF UNITED STATES PARTICIPATION.

The United States is authorized to participate in the Cascadia Corridor Commission, which shall be established as a bilateral advisory commission, in coordination with the Government of Canada and State, provincial, and local governments in the urbanized Cascadia region along Interstate 5/Highway 99 from Vancouver, British Columbia, (including Vancouver Island) to Eugene, Oregon.

SEC. 2. FUNCTIONS OF CASCADIA CORRIDOR COMMISSION.

(a) AUTHORITY.—The Commission is authorized to—

(1) establish a forum to coordinate consideration of regional issues in the Cascadia region by representatives from the private sector, nonprofit organizations, and local, state, provincial, regional, and national governments; and

(2) not later than 2 years after its establishment, develop a strategy for environmentally sound economic development in the Cascadia region and submit such plan to the Congress, the Canadian Parliament, the legislature of British Columbia, and the State legislatures of Oregon and Washington.

(b) LIMITATION.—The Commission shall be authorized to function only in an advisory capacity and shall have no authority concerning any local, State, or Federal agency or government.

(c) QUORUM.—A majority of each of the delegations from Oregon, Washington, and Canada shall constitute a quorum, but a lesser number may hold hearings. The Commission may act by a majority vote of each delegation.

SEC. 3. STRATEGY.

In addition to such other issues as the Commission may determine to address, the strategy under section 2(a)(2) shall consider the following issues:

(1) Environmental management.

(2) Urban development.

(3) Transportation.

(4) Communications.

(5) Education.

SEC. 4. UNITED STATES DELEGATION TO COMMISSION.

The United States delegation to the Cascadia Corridor Commission shall be composed as follows:

(1) 1 member appointed by the President, who shall be a nonvoting member.

(2) A Washington State delegation.

(3) An Oregon delegation.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for fiscal years 1993 and 1994 a total of $800,000 to enable it to carry out its duties and functions consistent with this Act. Appropriations are authorized to remain available until expended.

(b) LIMITATION.—Amounts obligated and expended pursuant to the authorization of appropriations under subsection (a) may not exceed one-fourth of the total expenditures of the Commission for each fiscal year.●

● Mr. GORTON. Mr. President, since the United States-Canada Free-Trade Agreement was enacted 3 years ago, the Pacific Northwest and Western Canada have enjoyed a tremendous growth in trade. Both Washington State and Oregon have increased their exports to Canada by 50 percent since 1987, with total exports to Canada now accounting for more than 25,000 jobs in the two States.

But the increased trade has also brought rapid growth. The area which runs from Vancouver, BC to Eugene, OR—what we call the Cascadia Corridor—is now experiencing extensive urbanization. Increased traffic could soon clog our infrastructure and limit the region's economic potential. Mismanagement of our natural resources could deprive the area of employment opportunities and some of its quality of life.

Unfortunately, the problem of controlling this growth is made more difficult by the international boundary which divides the Cascadia Corridor. For example, we know that increased development in British Columbia will create congestion in Washington State. But the two areas are governed by a complex array of governmental agencies that hinders efforts to plan effectively for such growth.

Today Senator ADAMS and I are introducing a bill which will authorize the creation of a commission to study and make recommendations on the proper management of growth in the Cascadia region. This much-needed bill will help fill the gaps between our two governments and encourage the type of cooperation demanded of the growth shared by our two countries.●

By Mr. RIEGLE (for himself, Mr. GARN, Mr. GRAHAM, Mr. MACK, Mr. BREAUX, Mr. INOUYE, and Mr. AKAKA):

S. 3285. A bill to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1992

●Mr. RIEGLE. Mr. President, today, for myself and Senators, GARN, GRAHAM, MACK, BREAUX, INOUYE, and AKAKA, I introduce the Depository Institutions Disaster Relief Act of 1992, a revised version of the bill I introduced on September 23 as S. 3266.

This legislation is intended to facilitate reconstruction in the wake of several recent disasters, including Hurricanes Andrew and Iniki and the Los Angeles riots.

Let me briefly outline the bill's main provisions.

Section 2 authorizes regulators to make exceptions to appraisal requirements in disaster areas. The exceptions could last for up to 3 years after the disaster. The 3-year limit applies to the period in which depository institutions could make loans without complying with normal appraisal requirements—not to the maturity of the loans. Thus, for example, regulators could permit institutions to make 30-year loans without having to obtain an appraisal after the exception expired.

Section 3 authorizes regulators to make exceptions to the Truth in Lending Act and the Expedited Funds Availability Act. This supplements regulator's existing exception authority. For example, section 125(d) of the Truth in Lending Act lets the Federal Reserve Board make exceptions to homeowners' 3-day right of rescission. Section 604(d) of the Expedited Funds Availability Act provides exceptions to key rules under that Act in the case of "any emergency condition beyond the control of the receiving depository institution." Those two exception provisions respond to many of the practical concerns we have heard. Whether to use section 3 to make additional exceptions is up to the Board, which must weigh the benefits and costs of any such exceptions. Exceptions could last for up to one year after the date of the disaster or date of enactment, whichever came first.

Section 4 lets regulators accommodate extraordinary asset growth—resulting from the deposit of insurance proceeds—at institutions whose deposit-taking centers on areas of intense physical devastation. Specifically, regulators could permit such an institution, when calculating its leverage limit—capital divided by total assets—to exclude asset increases attributable to the deposit of insurance proceeds and governmental assistance. As used in section 4, the term leverage limit encompasses what regulators refer to as the leverage ratio and the critical capital level.

To qualify for the exception, the institution would need to have its main office in such an area, draw at least 60 percent of its deposits from customers in the area, be adequately capitalized before the disaster, and have an acceptable plan for managing the deposit influx. Regulators would also need to find that the exclusion comports with the objective of avoiding or minimizing loss to the FDIC. The exclusions could last for up to 18 months after the date of enactment.

Section 5 enables regulators to amend their regulations without having to follow the Administrative Procedure Act. For example, regulators would not have to go through notice-and-comment procedures. Regulators could also exempt depository institutions from other publication requirements—such as newspaper notices for

opening or closing branches. This flexibility would last for 180 days after enactment.

Section 5 expedites the procedure for using existing authority or authority granted under provisions of the bill. Except for allowing exceptions to publication requirements, section 5 grants no new substantive authority to make exceptions. Nor does it otherwise alter substantive rules. It simply allows regulators to speed up the process.

Section 6 clarifies and strengthens the community-development authority of national banks and State member banks.

Section 7 expresses the sense of the Congress that regulators should encourage depository institutions in disaster areas to meet the financial services needs of their communities.

Section 8 specifies that the act does not limit regulator's existing authority.

This bill grants appropriate relief without compromising safety and soundness.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3285

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1992".

SEC. 2. APPRAISAL REQUIREMENTS.

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended by adding at the end the following new section:

"SEC. 1123. EMERGENCY EXCEPTIONS FOR DISASTER AREAS.

"(a) IN GENERAL.—Each Federal financial institutions regulatory agency may, by regulation or order, make exceptions to this title, and to standards prescribed pursuant to this title, for transactions involving institutions for which the agency is the primary Federal regulator, with respect to real property located within a disaster area if the agency—

"(1) makes the exception not later than 30 months after the date on which the President determines, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that a major disaster exists in the area; and

"(2) determines that the exception—

"(A) would facilitate recovery from the major disaster; and

"(B) is consistent with safety and soundness.

"(b) 3-YEAR LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

"(c) PUBLICATION REQUIRED.—Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement that—

"(1) describes any exception made under this section; and

"(2) explains how the exception—

"(A) would facilitate recovery from the major disaster; and

"(B) is consistent with safety and soundness.

"(d) DISASTER AREA DEFINED.—For purposes of this section, the term 'disaster area' means an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists.".

SEC. 3. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

"(a) TRUTH IN LENDING ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

"(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act of 1987 for depository institution offices located within an area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

"(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) 1 year after the date of the Presidential determination referred to in subsection (a).

(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(1) describes any exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. 4. DEPOSIT OF INSURANCE PROCEEDS.

(a) IN GENERAL.—The appropriate Federal banking agency may, by order, permit an insured depository institution, during the 18-month period beginning on the date of enactment of this Act, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, on the day before the date of that determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster (such as that portion of Dade County, Florida, south of Kendall Drive and east of Everglades National Park, as damaged by Hurricane Andrew);

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(b) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) LEVERAGE LIMIT.—The term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(4) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term "qualifying amount attributable to insurance proceeds" means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of the Presidential determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

SEC. 5. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercising the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes any action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term 'qualifying regulatory agency' means:

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

SEC. 6. COMMUNITY DEVELOPMENT AUTHORITY OF BANKS.

(a) NATIONAL BANKS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end the following new paragraph:

"Eleventh.—To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in an unimpaired and 10 percent of the association's unimpaired surplus fund.".

(b) STATE MEMBER BANKS.—Section 9 of the Federal Reserve Act (12 U.S.C. 321-338) is amended by adding at the end the following new paragraph:

"State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the bank is adequately capitalized. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in an unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 7. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions in areas affected by such major disasters as Hurricane Andrew, Hurricane Iniki, and the Los Angeles civil unrest to meet the financial services needs of their communities.

SEC. 8. OTHER AUTHORITY NOT AFFECTED.

Nothing in this Act limits the authority of any department or agency under any other provision of law.

• Mr. BREAUX. Mr. President, I rise today to cosponsor legislation which will ease credit requirements for lenders aiding victims of Hurricanes Andrew and Iniki as well as victims of future disasters. Mr. President, thousands of people in Florida, Louisiana, and Hawaii are trying to rebuild their lives in the face of natural disasters which have left their homes and businesses destroyed. This legislation recognizes that rules and regulations written for normal times are inhibiting banks from providing critical services—particularly credit services—to these ravaged communities.

The Depository Institutions Disaster Relief Act of 1992 would grant Federal banking agencies discretion to modify or waive certain specified regulatory constraints—after full consideration of safety and soundness demands—that interfere with the flow of banking services to emergency or major disaster areas. The area would have to be declared a disaster area by the President in order for regulators to modify or waive the specified regulatory requirements.

For example, the banking laws generally require that an appraisal be conducted in connection with most loan transactions that are secured by real estate. Compliance with this rule by traditional appraisal methods is virtually impossible—and unnecessary—when entire neighborhoods have been destroyed.

Mr. President, adequate credit and other banking services are never needed more than in times of emergency or major disaster. This legislation will provide that needed assistance to disaster victims as well as protect the integrity of our Nation's banking laws. I urge my colleagues to join me in support of this very important legislation.•

• Mr. GRAHAM. Mr. President, I am pleased to join my colleagues, Senators MACK, BREAUX, INOUYE, AKAKA, RIEGLE, and GARN in cosponsoring the Depository Institutions Disaster Relief Act of 1992. This bill is intended to encourage the financial institution regulators to recognize and assist financial institutions located in emergency areas due to natural disasters like hurricanes and typhoons. The bill will also encourage financial institutions serving disaster areas to meet the financial service needs of their devastated communities.

Secretary BRADY started the ball rolling on the idea for this bill when he visited the hurricane ravaged area in south Florida and met with representatives of the financial community. At that time the financial institutions expressed their concerns about whether they would be able to lend in their communities and what they themselves were facing. The institutions located in the devastated area and which principally served that area were in the process of surveying the damage to their facilities, seeking shelter for their employees and trying to get power to their buildings.

Florida financial institutions and a representative from the Florida comptroller's office were so concerned about the difficult situation they found themselves in that they personally came to Washington to share with Congress the challenges they were facing every day. Fortunately, the Congress was sympathetic and realized that the financial institutions in the affected communities would play a vital role in rebuilding south Florida by making the critically needed credit available.

The Depository Institutions Disaster Relief Act would apply only to an area declared to be a Presidential emergency; in addition the Stafford Act would have to be in effect. The regulators must still maintain the safety and soundness of the affected financial institutions; however the bill would give financial regulators the ability to waive certain regulatory requirements.

Among the requirements that could be waived are the appraisal requirements. In normal times, current financial standards require appraisals on property before a financial institution can make a loan. However, in a disaster area, like those hit by Hurricanes Andrew and Iniki, it is hard to meet these appraisal requirements due to the destruction.

The bill also waives the capital requirements for financial institutions to make allowance for the spikes in the measurement of capital going into a financial institution from insurance proceeds and going out as the financial institution lends for the rebuilding effort. The bill also gives the regulators the discretion to waive for 1 year the Administrative Procedures Act, the Truth-in-Lending Act and the Expedited Funds Availability Act.

Finally the bill includes a sense of the Congress to encourage the financial regulators to encourage the financial institutions to meet the financial needs of their devastated communities.

Mr. President, I would like to express my sincere thanks to my colleagues and their staffs, and representatives from the Treasury Department and the financial regulators, for all the hard work they have put in on this bill. In particular, I would like to thank Rick Carnell, a fellow Floridian, who has developed an appreciation for the impact of Hurricane Andrew on south Florida.•

By Mr. HOLLINGS:

S. 3286. A bill to amend the Endangered Species Act of 1973 to provide for a loan program for States and political subdivisions; to the Committee on Environment and Public Works.

ENDANGERED SPECIES ACT OF 1973 AMENDMENTS

•Mr. HOLLINGS. Mr. President, for years Congress has mandated costly regulations on States and municipalities. Nowhere has this been more true than in the realm of environmental legislation. Congress seems to believe that it can purify air, clean water, and protect wildlife simply by passing laws.

As the former mayor of Anaheim, I can tell you that simply instructing a State or municipal government to address a problem is not a solution. The Federal Government must provide the necessary assistance to ensure the locality has the ability to comply.

It is for this very reason that today I am introducing the Endangered Species Community Impact Assistance Act.

My bill will facilitate the implementation of a new ambitious multispecies habitat effort currently being conducted in California. The effort is intended to move from single species habitat conservation planning to natural community conservation planning. The approach, known as bioregionalism acknowledges the interconnection between ecosystems and species, establishing habitat conservation programs that serve an entire ecosystems and all their species as opposed to simply protecting one plant or animal.

Traditionally, both State agencies and the U.S. Fish and Wildlife Service have viewed compliance with the Endangered Species Act as a single species issue. When the U.S. Fish and Wildlife Service determines that a species is threatened with extinction, it lists the species and establishes a recovery plan.

Invariably, this system is reactive. The Government only gets involved when a species is on the brink of extinction, at which point the Fish and Wildlife Service typically must take radical action to prevent the species from going extinct.

Such inaction, followed by frantic overreaction, has not only had a devastating impact on many local and regional economies, but has also done little for the very plants and animals the Endangered Species Act is designed to protect.

California, on both the State and local level, is trying something new. Instead of waiting for rare species to be listed, or attempting to deal with listed species one at a time, the State has established a project to identify priorities and set aside habitat that is shared by a host of different listed and candidate species.

Through such a holistic, multispecies approach, it is hoped that California can forestall the otherwise inevitable progression of species listings. Each of these listings limits the ability of State and local governments to make rational public policy decisions—invariably to the detriment of California's economy.

Setting aside wildlife habitat before such a crisis is reached can dramatically lessen the damage not only to the wildlife species but also local economies. Unfortunately, in today's bleak economic climate, State and local governments cannot afford to be proactive.

The purchase of significant habitat acreage is very expensive. States and municipalities which are interested in setting aside such habitat, have to borrow the money. The cost of the principal and the interest combined is often more than any single government entity can afford. Without adequate funding, the land cannot be set aside, and everyone suffers.

The Endangered Species Impact Assistant Act addresses this problem. The act gives the Secretary of the Interior the authority to enter into agreements with local governments to provide interest free loans for the acquisition of habitat for rare and endangered species. Once the local or State government has paid off the principal, the Secretary has the discretion to take title to the land without further expense.

Mr. President, this bill makes economic and environmental sense, and I am hopeful that it can be used as a sound starting point for the much-needed discussion of endangered species impact assistance for States, counties, and municipalities when the Endangered Species Act is brought before the Senate for reauthorization next year.•

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from North Dakota [Mrs. BURDICK] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Arkansas [Mr. PRYOR] 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. 1862

At the request of Mr. GRAHAM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 2033

At the request of Mr. DASCHLE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2033, a bill to expand the exclusion of services of election officials and workers from social security earnings.

S. 2362

At the request of Mr. MCCAIN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2362, a bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new physicians.

S. 2407

At the request of Mr. SEYMOUR, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2407, a bill to amend the Board for International Broadcasting Act of 1973 to establish a program for radio broadcasting to the peoples of Asia.

S. 2810

At the request of Mr. GRASSLEY, the name of the Senator from Kentucky [Mr. MCCONNELL] 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.

At the request of Mr. GORE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2810, supra.

S. 2813

At the request of Mr. GORE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2813, a bill to establish in the Government Printing Office an electronic gateway to provide public access to a wide range of Federal databases containing public information stored electronically.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Delaware [Mr. ROTH] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 2941

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 3117

At the request of Mr. DASCHLE, his name was added as a cosponsor 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.

S. 3183

At the request of Mr. DASCHLE, the name of the Senator from Hawaii [Mr.

INOUYE] was added as a cosponsor of S. 3183, a bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes.

S. 3195

At the request of Mr. GLENN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 3195, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the U.S. involvement in World War II.

S. 3221

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 3221, a bill to deny most-favored-nation status to Serbia and Montenegro unless certain conditions are met.

SENATE JOINT RESOLUTION 3

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mrs. BURDICK] was added as a cosponsor of Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE JOINT RESOLUTION 260

At the request of Mr. COCHRAN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 260, a joint resolution designating the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week."

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Michigan [Mr. RIEGLE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Kentucky [Mr. FORD], the Senator from Indiana [Mr. COATS], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors 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 311

At the request of Mr. SEYMOUR, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week," and for other purposes.

SENATE JOINT RESOLUTION 315

At the request of Mr. SEYMOUR, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 315, a joint resolution to designate September 16, 1992, as "National Occupational Therapy Day."

SENATE JOINT RESOLUTION 327

At the request of Mr. BRYAN, the names of the Senator from California [Mr. SEYMOUR], the Senator from Nebraska [Mr. EXON], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 327, a joint resolution to designate October 8, 1992, as "National Firefighters Day."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the names of the Senator from California [Mr. SEYMOUR] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

AMENDMENT NO. 3217

At the request of Mr. PACKWOOD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Amendment No. 3217 proposed to H.R. 11, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

SENATE RESOLUTION 353—RELATIVE TO THE PRESIDENTIAL DEBATES

Mr. PRYOR (for himself and Mr. GRAHAM) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 353

Whereas American taxpayers currently fund presidential campaigns through a one dollar check-off on their Federal income tax form;

Whereas the Democratic and Republican presidential nominees will each receive roughly $75,000,000 in taxpayers' dollars to fund their campaigns through the 1992 general election;

Whereas the American electorate deserves to be presented with the opportunity to watch and listen to the candidates exchange views face-to-face on the issues of the day;

Whereas presidential debates have been a part of every Presidential campaign for the past 16 years;

Whereas the American public has come to expect formal debates as an integral part of the presidential election process;

Whereas Democrats and Republicans alike agree in the importance of debates and showed their interest by having the Democratic and Republican National Committees collaborate in 1987 to establish the Commission on Presidential Debates, a bipartisan group; and

Whereas in 1988, 160,000,000 Americans expressed their interest in seeing candidates debate by watching the two Presidential and one Vice Presidential debates that the Commission sponsored: Now, therefore, be it *Resolved*, That it is the sense of the Senate that—

(1) the American people fund the campaigns of the major party candidates, and they have a right to expect formal Presidential and Vice Presidential debates; and

(2) the Democratic and Republican Presidential candidates and Vice Presidential candidates should debate before the election of November 3, 1992.

Mr. PRYOR. Mr. President, American taxpayers currently fund the Presidential campaigns through a $1 check-off on their Federal income tax form. This year the Democratic and Republican Presidential nominees will each receive roughly $75 million in taxpayers' money to fund their campaigns through the 1992 general election.

What I am introducing at this time is a very simple sense-of-the-Senate resolution. It is a very simple resolution saying that it is the American public funds that fund the Presidential campaigns and the American people deserve to see formal Presidential and Vice Presidential debates before the election on November 3, 1992.

Today, as we know, was supposed to have been a day for a second Presidential debate in Louisville, KY. Like its predecessor in Michigan, the Louisville debate was canceled, to my understanding, because President Bush declined to attend.

Mr. President, this simple resolution simply states that the United States Senate is going on record supporting the Presidential debates to go forward so that the American people can see the position each candidate is taking.

Not since the campaign of 1972 have the American people been deprived of Presidential debates. They have come to expect debates and they deserve them.

If American taxpayers are going to foot much of the bill for Presidential campaigns, the least a candidate can do in return is give 2 hours of his time to tell the American people where he stands in a face-to-face debate.

Accordingly, today I am offering a sense-of-the-Senate resolution which would simply put the Senate on record in favor of Presidential debates.

This resolution reads as follows: Resolved that it is the sense-of-the-Senate that: First, the American people fund the campaigns of the major party candidates, and they have a right to expect formal Presidential and Vice Presidential debates; and second, the Democratic and Republican Presidential candidates and Vice Presidential candidates should debate before the election of November 3, 1992.

It is as simple as that—the Senate wants debates.

Today, I stand on the floor of the greatest deliberative body in the world, the site of innumerable debates on the important issues of the day. This resolution is a simple way for the Senate to stand in unison in favor of a simple and noncontroversial concept: the can-

didates for President and Vice-President have a responsibility to the American public to debate.

It is my understanding that today at 5 p.m. another deadline is set to expire for both candidates to accept a debate from the bipartisan commission on Presidential debates. If one of the candidates declines to debate, later this week I will offer a sense-of-the-Senate resolution stating that any candidate refusing to accept the commission's offer to debate should return the Federal campaign funds that they have received, or will receive. The American public pays for these elections with their tax dollars, and they expect debates in return. That later resolution will make another simple statement: if you do not want public debates, give back the public tax dollars you have taken.

I hope I do not have to submit that resolution. I hope both candidates will accept the bipartisan commission's offer for a public debate, but if that bipartisan offer is spurned, I will be back later this week to offer my second resolution.

AMENDMENTS SUBMITTED

START TREATY

WALLOP EXECUTIVE AMENDMENT NO. 3317

Mr. WALLOP proposed an amendment to the resolution of ratification to the Treaty between the United States and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, as follows:

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all MIRVed ICBMs, and all launchers for MIRVed ICBMs, shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, signed by the President of the United States of America and the President of the Russian Federation."

TAX EQUITY ACT

BENTSEN AMENDMENT NO. 3318

Mr. BENTSEN proposed an amendment to the bill H.R. 11, to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; as follows:

On page 1811, after line 9, insert the following new titles:

TITLE—AMENDMENTS TO MEDICARE PROGRAM

SECTION 100. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title, and titles and may be cited as the "Medicare and Medicaid Amendments Act of 1992".

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title, and titles and , an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, and titles and , the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", and "OBRA-1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), respectively.

SUBTITLE A—PROVISIONS RELATING TO PART A

PART I—EXTENSION OF EXPIRING PROVISIONS

SEC. 101. EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.

(a) IN GENERAL.—Section 6003(d) of OBRA-1989 is amended by striking "1992" and inserting "1994".

(b) RECLASSIFICATION DECLINATION ALLOWED.—If any hospital fails to qualify as a regional referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act with respect to such hospital's application for a change in geographic classification for fiscal year 1993, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) administer the Social Security Act with respect to such hospital from October 1, 1992, until the effective date of the declination as if the decision by the Review Board had not occurred.

(c) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for hospitals which decline reclassification under subsection (b).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of OBRA-1989.

SEC. 102. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) by amending clause (i) to read as follows:

"(i) In the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) for discharges occurring before October 1, 1994, shall be—

"(I) for any cost reporting period beginning on or after April 1, 1990, and before April 1, 1993, the amount determined under clause (ii); and

"(II) for any cost reporting period beginning on or after April 1, 1993, the amount determined under clause (ii) by substituting '50 percent' for '100 percent'.";

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(3) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is the sum of—

"(I) the amount determined under paragraph (1)(A)(iii), and

"(II) 100 percent of the excess (if any) of—

"(aa) the hospital's target amount for the cost reporting period, as defined in subsection (b)(3)(D), over

"(bb) the amount determined under paragraph (1)(A)(iii).".

(b) RECLASSIFICATION DECLINATION ALLOWED.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act with respect to such hospital's application for a change in geographic classification for fiscal year 1993, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) administer the Social Security Act with respect to such hospital from October 1, 1992, until the effective date of the declination as if the decision by the Review Board had not occurred.

(c) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for hospitals which decline reclassification under subsection (b).

SEC. 103. EXTENSION OF RURAL HEALTH TRANSITION GRANT PROGRAM.

Section 4005(e)(9) of OBRA-1987, as amended by section 6003(g)(1)(B) of OBRA-1989, is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of the fiscal years 1993 through 1997".

SEC. 104. EXTENSION OF ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM.

(a) IN GENERAL.—Section 1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1995".

(b) CLARIFICATION OF CRITERIA.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended by striking "72 hours" and all that follows through "conditions)" and by inserting "an average of 72 hours".

SEC. 105. EXTENSION OF PASS THROUGH PAYMENT FOR HEMOPHILIA INPATIENTS.

(a) IN GENERAL.—Section 6011(d) of OBRA-1989 is amended by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of OBRA-1989.

SEC. 106. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA-1990 is amended by adding at the end the following new sentence: "The Secretary shall continue any such demonstration project until at least December 31, 1995.".

PART II—MISCELLANEOUS PART A AMENDMENTS

SEC. 107. WAGE INDEX HOLD HARMLESS PROTECTION.

(a) IN GENERAL.—Section 1886(d)(8)(C)(iii) (42 U.S.C. 1395ww(d)(8)(C)(iii)) is amended by adding at the end the following new sentence: "In the case of an urban area in a State that has—

"(I) a wage index below the wage index for rural areas in such State, or

"(II) no rural areas,

such an application or decision may not result in a reduction of that urban area's wage index.

(b) URBAN STANDARDIZED AMOUNT ADJUSTED.—For discharges occurring on or after the effective date of this section and before October 1, 1993, the Secretary of Health and Human Services shall adjust the urban standardized amount by a factor of 0.999321.

(c) UPDATING STANDARDS.—Section 1886(d)(8)(B) (42 U.S.C. 1395ww(d)(8)(B)) is amended—

(1) by striking "(B)" and inserting "(B)(i)",

(2) by inserting "most recently available" before "standards" each place it appears,

(3) by striking "published in the Federal Register on January 3, 1980", and

(4) by adding at the end the following new clause:

"(ii) If a hospital was previously reclassified under this paragraph based on standards for Metropolitan Statistical Areas (and New England County Metropolitan Areas) published in the Federal Register on January 3, 1980, and the hospital is located in a rural county under the most recently available standards for designating Metropolitan Statistical Areas, the Secretary shall treat the hospital as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute.".

(d) EFFECTIVE DATE.—The amendments made by this section shall be apply to discharges occurring on or after the date which is 30 days after the date of the enactment of this Act.

SEC. 108. SUPERVISION OF HOSPITAL TREATMENT BY PSYCHOLOGISTS.

Section 1861(e)(4) (42 U.S.C. 1395x) is amended by inserting ", or, in the case of inpatients receiving qualified psychologist services (as defined in subsection (ii)), may be under the care of a clinical psychologist to the extent permitted under State law" after "physician".

SEC. 109. DELAY IN RECOUPMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") may not, on or after the date of the enactment of this Act and before April 1, 1993, recoup from or otherwise reduce payments to hospitals with respect to alleged overpayments made to such hospitals with respect to a waiver granted by the Secretary to a State under section 1886(c) of the Social Security Act.

(b) INFORMATION MADE AVAILABLE.—Prior to undertaking a recoupment, the Secretary shall make available to the State and the hospitals in the State all relevant information used by the Secretary to determine the amount of the alleged overpayments, including—

(A) the cost reports submitted by the hospitals during the relevant cost reporting period, and

(B) the methodology used by the Secretary to determine the amount of payments that would have been made under title XVIII of the Social Security Act to hospitals in the State in the absence of the waiver.

SEC. 110. SKILLED NURSING FACILITY WAGE INDEX.

(a) IN GENERAL.—Within one year of the date of the enactment of this Act, the Secretary of Health and Human Resources shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) PROPAC REPORT.—The Prospective Payment Assessment Commission shall, by March 1, 1993, study and report to the Congress on the impact of applying routine cost limits for skilled nursing facilities on a regional basis.

Subtitle B—Provisions Relating to Part B

PART I—PAYMENT FOR PHYSICIANS' SERVICES

SEC. 111. PERMITTING SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Section 1848(b) (42 U.S.C. 1395w-4(b)) is amended by striking paragraph (3).

(b) DEVELOPMENT OF SEPARATE FEE SCHEDULE AMOUNTS FOR ELECTROCARDIOGRAM INTERPRETATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall make separate payment, under the fee schedule established under section 1848 of the Social Security Act (42 U.S.C. 1395w-4), for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician.

(2) ADJUSTMENT OF VISIT AND CONSULTATION RELATIVE VALUES.—The Secretary shall adjust the relative values established for medical visits and consultations under part 415 of title 42 of the Code of Federal Regulations, so as not to include relative value units for electrocardiogram interpretation in the relative value for medical visits and consultations.

(3) ADJUSTMENT OF FEE SCHEDULES.—The Secretary shall adjust—

(A) the fee schedule amounts which are determined under section 1848(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w-4(a)(2)(A)) and used in application of the special rules for 1993, 1994, and 1995, under section 1848(a)(2)(B) of such Act (42 U.S.C. 1395w-4(a)(2)(B)), and

(B) the relative values for all services established under section 1848(b) of such Act (42 U.S.C. 1395w-4(b)),

to reflect the separate payment for electrocardiogram interpretations under paragraph (1) so as not to increase or decrease expenditures under such section as determined without regard to paragraph (1).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall apply to services furnished on or after January 1, 1993.

SEC. 112. REPEAL OF REDUCED MEDICARE PAYMENT PROVISION FOR NEW PRACTITIONERS.

(a) PHYSICIANS.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by repealing paragraph (4).

(b) OTHER PRACTITIONERS.—Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(c) BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall provide that in carrying out the amendments made by subsections (a) and (b) that payments under section 1848 of the Social Security Act are no greater or lesser than what such payments would have been but for the provisions of this Act.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to physicians' services furnished on or after January 1, 1993.

SEC. 113. BASING MEDICARE PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at the end the following: "Notwithstanding any other provision of law, for anesthesia services furnished on or after January 1, 1993, and before January 1, 1997, the Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: "Notwithstanding any other provision of law, for anesthesia services furnished on or after January 1, 1993, and before January 1, 1997, the Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this subsection.".

(c) STUDY ON TIME REPORTED FOR ANESTHESIA SERVICES.—

(1) CONTENTS OF STUDY.—The Comptroller General of the United States (hereafter in this section referred to as the "Comptroller General") shall—

(A) study the actual time reported for anesthesia services furnished under title XVIII of the Social Security Act for high-volume surgical procedures,

(B) compare the actual time reported for a procedure during 1991 with the time reported for the same procedure during each of the 4 succeeding years,

(C) evaluate the extent to which the actual time reported for a procedure has increased or decreased during such period, and

(D) determine (to the extent practicable)—

(i) whether any increases or decreases identified under subparagraph (C) are the result of changes in patterns of medical practice, physician responses to reductions in payments for anesthesia services, or other factors, and

(ii) the effect of such increases or decreases on the total amount expended under title XVIII of the Social Security Act for anesthesia services.

(2) DESIGN OF STUDY.—The Comptroller General shall consult with the Physician Payment Review Commission (hereafter in this section referred to as the "Commission") in designing the study required under paragraph (1).

(3) REPORTS.—

(A) INTERIM REPORT.—The Comptroller General shall transmit an interim report on the progress of the study to the Commission, the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives not later than July 1, 1994.

(B) FINAL REPORT.—The Comptroller General shall report the results of the study to the Commission and the Committees referred to in subparagraph (A) not later than July 1, 1996.

(4) EVALUATION OF REPORTS BY THE COMMISSION.—The Commission shall evaluate each report required under paragraph (3) and transmit comments on the report to the Committees referred to in paragraph (3)(A) not later than 90 days after the report is received by the Commission.

SEC. 114. REFINEMENT OF GEOGRAPHIC ADJUSTMENT FACTOR FOR MEDICARE PHYSICIANS' SERVICES.

(a) DEADLINE FOR INITIAL REVIEW AND REVISION.—Section 1848(e)(1)(C) (42 U.S.C. 1395w-

4(e)(1)(C)) is amended by adding at the end the following: "The first such review and revision shall apply to services furnished on or after January 1, 1994, and shall be based on the most recent data on practice expenses, malpractice expenses, and physicians' work effort.".

(b) AUTHORITY TO ADJUST INDEX VALUE FOR INPUT COMPONENT UNDER CERTAIN CIRCUMSTANCES.—

(1) IN GENERAL.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (D)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) SPECIAL ADJUSTMENT TO CORRECT FOR UNIQUE LOCAL CIRCUMSTANCES.—The Secretary may adjust the value assigned to an input component of an index in a fee schedule area if the Secretary determines that the value that would otherwise apply in such area does not accurately reflect the relative costs of such input for such area because of unique local circumstances.".

(2) CONFORMING AMENDMENT.—Section 1848(i)(1)(D) (42 U.S.C. 1395w-4(i)(1)(D)) is amended by inserting "(including any adjustment under subparagraph (C) thereof)" after "subsection (e)".

(c) REPORT ON REVIEW PROCESS.—Not later than April 1, 1993, the Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(A)), including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data sources.

(d) STUDY ON LOW-VOLUME ADJUSTMENT IN ISOLATED AREAS.—

(1) IN GENERAL.—Not later than July 1, 1993, the Physician Payment Review Commission shall study and report to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the feasibility and desirability of providing for a special adjustment to the index value of the medical equipment and supplies input component of the index used under section 1848(e) of the Social Security Act (42 U.S.C. 1395w-4(e)) with respect to services described in paragraph (2).

(2) DESCRIPTION OF SERVICES.—Services described in this paragraph are services—

(A) furnished by a physician who practices in an isolated area;

(B) requiring the presence of expensive medical equipment and supplies in the physician's office; and

(C) with respect to which the cost per service of operating the equipment is increased because of the low volume of patients of such physician.

SEC. 115. EXTRA BILLING.

(a) APPLICATION OF EXTRA-BILLING LIMITS.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) NO BILLING IN EXCESS OF LIMITING CHARGES.—A nonparticipating physician who does not accept payment on an assignment-related basis for physicians' services furnished with respect to an individual enrolled under this part may not bill or collect an actual charge in excess of the limiting charge described in paragraph (2) for such services.

"(B) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed in excess of the amount permitted under subparagraph (A).

"(C) REFUND OF EXCESS CHARGES.—If a physician bills or collects an amount that exceeds by at least one dollar the applicable limiting charge for a service furnished to an individual enrolled under this part, the physician shall on a timely basis—

"(i) refund the full amount collected in excess of the limiting charge,

"(ii) if there is an outstanding balance owed to the physician for other items and services and furnished to the individual, reduce this balance by the amount of the excess charge and refund any amount in excess of the outstanding balance, or

"(iii) if the physician has not yet collected such excess charges, reduce the actual charge billed for the service to the amount permitted under subparagraph (A).

"(D) TIMELINESS OF REFUND.—

"(i) IN GENERAL.—A refund (or reduction) under subparagraph (C) is considered to be made on a timely basis if the full refund (or notice to the individual of reduced outstanding balance or reduced charge, as applicable) is made within 30 days after a carrier notifies the physician that the limiting charge has been exceeded.

"(ii) RESPONSE TO CARRIER'S DETERMINATION.—In the case of a physician who, within 30 days after the carrier notifies the physician that the limiting charge has been exceeded, submits to the carrier documentation supporting application of a different limiting charge to the service furnished, a refund (or reduction) under subparagraph (C) is considered to be made on a timely basis if the full refund (or notice to the individual of reduced outstanding balance or reduced charge, as applicable) is made within 15 days after the carrier notifies the physician following review of such documentation that the limiting charge has been exceeded.

"(E) SANCTIONS.—If a physician—

"(i) knowingly and willfully bills for services in violation of subparagraph (A),

"(ii) collects for services in violation of subparagraph (A) on a repeated basis, or

"(iii) fails to comply with subparagraph (C),

the Secretary may apply sanctions against the physician in accordance with section 1842(j)(2) and apply paragraph (4) of section 1842(j) in the same manner as such paragraph applies to such section.".

(2) APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES FURNISHED BY ANY PERSON.—

(A) IN GENERAL.—Section 1848(g) (42 U.S.C. 1395w-4(g)) is amended—

(i) in paragraph (1), as amended by subsection (a) of this section—

(I) in subparagraph (A), by inserting "or nonparticipating supplier or other person (as defined in section 1842(i)(2))" after "nonparticipating physician",

(II) in subparagraph (C), by inserting ", supplier, or other person" after "physician" each place it appears,

(III) in subparagraph (D), by inserting ", supplier, or other person" after "physician" each place it appears, and

(IV) in subparagraph (E), by inserting ", supplier, or other person" after "physician" each place it appears, and by inserting before the period at the end the following: "and any reference in such section to a physician is deemed to include a reference to a supplier or other person under this subparagraph"; and

(ii) in paragraph (2)(C), by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking ", and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(C) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(i) in subsection (a)(3)—

(I) in the heading, by inserting "AND SUPPLIERS" after "PHYSICIANS", and

(II) by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician", and

(ii) in subsection (j)(3), by inserting ", except for purposes of subsection (g)," after "tests and".

(b) DETERMINATIONS BY CARRIERS REGARDING APPLICABLE LIMITING CHARGES FOR PHYSICIAN SERVICES.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by striking "and" at the end of subparagraph (H); and

(3) by inserting after subparagraph (H), the following new subparagraph:

"(I) will, for claims that are not paid on an assignment-related basis—

"(i) determine, prior to making payment, whether the amount billed for physicians' services furnished with respect to an individual enrolled under this part exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person within 30 days of any determination that the amount billed exceeds by at least one dollar the limiting charge applicable under section 1848(g)(2) and provide an opportunity for the physician supplier or other person to respond;

"(iii) notify the physician, supplier, or other person, within 30 days of the receipt of a response, of the carrier's determination with respect to such response regarding whether the limiting charge applicable under section 1848(g)(2) has been exceeded; and

"(iv) include limiting charge information in the explanation of medicare benefits that is sent to an individual enrolled under this part after the submission of an unassigned claim on an individual's behalf which exceeds the limiting charge by at least one dollar; and".

(c) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19)(A) Payment for any service furnished by a practitioner described in subparagraph (C) or a service incident to such practitioner's service and for which payment may be made under this part under section 1833(a)(1) may only be made under this part on an assignment-related basis.

"(B) Except for deductible and coinsurance amounts applicable under this part, a practitioner described in subparagraph (C) may not bill for an individual or other person any service described in subparagraph (A). No person is liable for payment of any amounts billed for such a service in violation of subparagraph (A). If a practitioner (or other person billing for a service on behalf of the practitioner) knowingly and willfully bills for such a service in violation of subparagraph (A), the Secretary may apply sanctions against the practitioner (or such other person) in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such subsection applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such subsection.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5)—

(I) by striking subparagraph (B), and

(II) by redesignating subparagraph (C) as subparagraph (B),

(ii) by striking subsection (p), and

(iii) in subsection (r)—

(I) by striking subparagraph (3), and

(II) by redesignating subparagraph (4) as subparagraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(C) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking "and" at the end of subparagraph (N),

(ii) by adding "and" at the end of subparagraph (O), and

(iii) by adding at the end the following new subparagraph:

"(P) with respect to services described in clauses (i), (ii), and (iv) of section 1861(s)(2)(K), the amounts paid shall be 80 percent of the lesser of the actual charge for the service or the amount determined under section 1842(b)(12)(A)(ii);".

(d) MONITORING OF CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6) (42 U.S.C. 1395w-4(g)(6)) is amended in subparagraph (B), by striking "report to the Congress" and inserting "report to the Congress regarding the charges described in subparagraph (A)(i), including the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges".

(e) ESTABLISHMENT OF MEDICARE BENEFICIARY ADVISORY COUNCIL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1889 the following new section:

"SEC. 1890. MEDICARE BENEFICIARY ADVISORY COUNCIL.

"(a) APPOINTMENT OF MEMBERS.—The Secretary shall appoint, based on nominations submitted by organizations representing elderly and disabled populations, a Medicare Beneficiary Advisory Council (hereafter in this section referred to as the 'Council') to be composed of 15 individuals who are entitled to benefits under part A or who are enrolled under part B.

"(b) MEETINGS.—The Council shall meet once during each calendar quarter to discuss proposed regulations, carrier manual instructions, and any other issues with a direct or indirect impact on delivery, cost, quality, or expansion of medicare services. To the extent feasible and consistent with statutory deadlines, such consultation shall occur before the publication of such proposed changes.

"(c) REIMBURSEMENT OF EXPENSES.—Members of the Council shall be entitled to receive reimbursement of expenses and per diem in lieu of subsistence in the same manner as other members of advisory councils appointed by the Secretary are provided such reimbursement and per diem under this title.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1993.

(2) COUNCIL.—The amendment made by subsection (e) shall take effect on the date of the enactment of this Act.

PART II—MISCELLANEOUS PART B AMENDMENTS

SEC. 121. DURABLE MEDICAL EQUIPMENT.

(a) DEFINITION OF MEDICAL EQUIPMENT AND SUPPLIES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"MEDICAL EQUIPMENT AND SUPPLIES

"(oo) The term 'medical equipment and supplies' means—

"(1) durable medical equipment (as defined in section 1861(n));

"(2) prosthetic devices (as described in section 1861(s)(8));

"(3) orthotics and prosthetics (as described in section 1861(s)(9));

"(4) home dialysis supplies and equipment (as described in section 1861(s)(2)(F));

"(5) surgical dressings and other devices (as described in section 1861(s)(5));

"(6) immunosuppressive drugs (as described in section 1861(s)(2)(J)); and

"(7) such other items as the Secretary may determine.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after January 1, 1993.

(b) DEVELOPMENT AND APPLICATION OF NATIONAL STANDARDS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) REQUIREMENTS FOR ISSUANCE AND RENEWAL OF SUPPLIER NUMBERS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) PAYMENT.—No payment may be made under this part after July 1, 1993, for items furnished by a supplier of medical equipment and supplies (as defined in section 1861(oo)) unless such supplier meets the national standards specified by the Secretary and possesses a valid supplier number.

"(2) REVISED STANDARDS.—

"(A) IN GENERAL.—The Secretary shall, by no later than January 1, 1995, in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers, revise the national standards for suppliers of medical equipment and supplies to include the requirements listed in subparagraph (B).

"(B) STANDARDS DESCRIBED.—The requirements listed in this subparagraph are that suppliers of medical equipment and supplies shall—

"(i) comply with all applicable State and Federal licensure and regulatory requirements;

"(ii) maintain a physical facility on an appropriate site;

"(iii) have proof of appropriate liability insurance; and

"(iv) meet such other requirements as the Secretary may specify.

"(C) APPLICABILITY OF REVISED STANDARDS.—Beginning after December 31, 1994, each supplier of medical equipment and supplies applying for a supplier number or renewing such supplier's supplier number shall meet the revised standards described in this paragraph.".

(c) CERTIFICATES OF MEDICAL NECESSITY.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by subsection (b), is amended—

(A) in subsection (a), by striking paragraph (16), and

(B) by adding at the end the following new subsection:

"(j) CERTIFICATES OF MEDICAL NECESSITY.—

"(1) STANDARDIZED CERTIFICATES.—Not later than July 1, 1993, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in paragraph (3)) for medical equipment and supplies (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)). If a certificate of medical necessity is required by the Secretary, such standardized certificates shall—

"(A) be completed by each physician who prescribes such medical equipment and supplies for any beneficiary under this part, and

"(B) be transmitted to the supplier and then to the carrier processing the claim for payment for such medical equipment and supplies under this part.

"(2) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a supplier of medical equipment and supplies described in paragraph (1) may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity.

"(B) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Subparagraph (A) shall not apply with respect to a certificate of medical necessity to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information identified by the Secretary. In the event a supplier provides a certificate of

medical necessity containing information permitted under this subparagraph, such certificate shall also contain the supplier's charge and the fee schedule amount for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(C) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(3) DEFINITION.—For purposes of this subsection, the term 'certificate of medical necessity' means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to certificates of medical necessity on or after January 1, 1993.

(d) COVERAGE AND REVIEW CRITERIA FOR CERTAIN MEDICAL EQUIPMENT AND SUPPLIES.—Section 1834 (42 U.S.C. 1395m), as amended by subsection (c), is amended by adding at the end the following new subsection:

"(k) COVERAGE AND REVIEW CRITERIA.—

"(1) DEVELOPMENT AND ESTABLISHMENT.—Not later than July 1, 1993, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)), individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies (as so defined) selected in accordance with the standards described in paragraph (2). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(2) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under paragraph (1) if the Secretary finds that—

"(A) the item is frequently purchased or rented by beneficiaries;

"(B) the item is frequently subject to a determination that such item is not medically necessary; or

"(C) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(3) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under paragraph (1) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than January 1, 1994, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under paragraph (1) on the utilization of items of medical equipment and supplies by individuals enrolled under this part.".

(e) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by subsection (d), is amended by adding at the end the following new subsection:

"(l) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies (as defined in section 1861(oo)) unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after July 1, 1993.

(f) DEFINITION OF INDUCEMENTS AS KICKBACKS CLARIFIED.—

(1) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting before the semicolon "(except that in the case of a contract supply arrangement between a skilled nursing facility and a supplier of medical supplies and equipment (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after January 1, 1993.

(g) LIMITATION ON BENEFICIARY LIABILITY.—

(1) IN GENERAL.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1861(oo))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i);

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15);

"(3) is excluded from participation under this title; or

"(4) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier on an unassigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services, unless the supplier informs the individual in advance that payment under this part will not be made for the item or services and the individual agrees to pay for the item or service.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items or services furnished on or after July 1, 1993.

(h) TREATMENT OF NEBULIZERS AND ASPIRATORS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(2) PAYMENT FOR SUPPLIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(7)(A) (42 U.S.C. 1395m(a)(7)(A)) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting "; and", and by inserting after clause (vi) the following new clause:

"(vii) In the case of supplies to be used in conjunction with a nebulizer or aspirator for which payment is made under this paragraph, payment shall be in accordance with paragraph (2) of this subsection.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1993.

(i) PAYMENT FOR OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, UROLOGICALS, SURGICAL DRESSINGS, AND OTHER MEDICAL SUPPLIES.—

(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, urologicals, surgical dressings, and other medical supplies shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2) (except that in the case of surgical dressings, the national limited payment amount shall be computed based on local payment amounts using average reasonable charges for the six-month period ending June 30, 1992, increased by the covered item update for 1993).".

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply with respect to items furnished on or after January 1, 1993.

(B) SURGICAL DRESSINGS AND OTHER MEDICAL SUPPLIES.—The amendment made by paragraph (1) with respect to surgical dressings and other medical supplies shall apply to items supplied on or after July 1, 1993.

(j) FREEZE IN REASONABLE CHARGES FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1993.—In determining the amount of payment under part B of title XVIII of the Social Security Act during 1993, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1992.

(k) STUDIES.—

(1) SUPPLIES AND SERVICES IN NURSING FACILITIES.—The Comptroller General of the United States shall conduct a study and report to the Congress no later than January 1, 1994, on the types, volume, and utilization of services and supplies furnished under contract or under arrangement with suppliers to individuals eligible for benefits under title XVIII of the Social Security Act residing in skilled nursing facilities and nursing facilities.

(2) DESCRIPTIONS RELATING TO CERTAIN CODES.—The Comptroller General of the United States shall conduct a study beginning no earlier than July 1, 1993, and report to the Congress no later than January 1, 1994, on—

(A) whether changes made by the Department of Health and Human Services to the

descriptions relating to the codes for medical equipment and supplies (as defined in section 1861(oo) of the Social Security Act other than paragraphs (4), (6), and (7))—

(i) accurately reflect the items being furnished under such codes, and

(ii) are sufficiently explicit to distinguish between items of varying quality and price, and

(B) recommendations for additional changes that would improve the descriptions relating to the codes for such items.

SEC. 122. AMENDMENT TO DEFINITION OF CERTIFIED NURSE-MIDWIFE.

(a) IN GENERAL.—Section 1861(gg)(2) (42 U.S.C. 1395x(gg)(2)) is amended by striking ", and performs services in the area of management of the care of mothers and babies throughout the maternity cycle".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 123. PAYMENT UNDER THE FEE SCHEDULE FOR SERVICES FURNISHED BY A CERTIFIED REGISTERED NURSE ANESTHETIST WHO IS MEDICALLY DIRECTED.

(a) IN GENERAL.—Section 1833(l)(4)(B) (1395l(l)(4)(B)) is amended to read as follows:

"(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1992, and before January 1, 1997, by a certified registered nurse anesthetist who is medically directed shall be $10.75.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 124. ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of OBRA-1986 is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years",

(2) in subsection (d)(1), by striking "fourth year" and inserting "fifth year", and

(3) in subsection (f), by striking "$55,000,000" and "$3,000,000" and inserting "$58,000,000" and "$5,000,000", respectively.

SEC. 125. DESIGNATION OF CERTAIN HOSPITALS AS EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i)(3) (42 U.S.C. 1395l(i)(3)) is amended—

(1) by striking the last sentence of subparagraph (B); and

(2) by adding at the end the following new subparagraph:

"(C)(i) In the case of a hospital that—

"(I) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

"(II) receives more than 30 percent of its total revenues from outpatient services, and

"(III) on October 1, 1987—

"(aa) was an eye specialty hospital or an eye and ear specialty hospital, or

"(bb) was operated as an eye or eye and ear unit of a general acute care hospital which, on the date of the application described in subclause (I), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of subparagraph (B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

"(ii) For purposes of this subparagraph the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 126. EXTENSION OF CAP ON PAYMENTS FOR INTRAOCULAR LENSES.

(a) IN GENERAL.—Section 4151(c)(3) of OBRA-1990 is amended by striking "December 31, 1992" and inserting "December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

SEC. 127. EXPANDED COVERAGE FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.

(a) PHYSICIAN ASSISTANTS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended by striking "(I) in a hospital" and all that follows through "shortage area".

(b) NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(1) by inserting "(I)" before "in a rural area", and

(2) by inserting ", (II) in any other area, in the case of services furnished by nurse practitioners other than services furnished to an inpatient of a hospital, or (III) in any other area, in the case of services furnished by clinical nurse specialists other than services furnished to an inpatient of a hospital, skilled nursing facility or nursing facility (as defined in section 1919(a)), and" after "section 1886(d)(2)(D))".

(c) CONFORMING AMENDMENTS.—

(1) Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "described in section 1861(s)(2)(K)(iii)".

(2) Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(O)) is amended by striking "provided in a rural area".

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended by striking "provided in a rural area".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 128. ORAL CANCER DRUGS.

(a) UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) For purposes of paragraph (1) the term 'drugs' includes any drugs or biologics used in an anticancer chemotherapeutic regimen for a medically accepted indication as described in subparagraph (B).

"(B) The term 'medically accepted indication' means any use of a drug included under paragraph (1) which is approved by the Food and Drug Administration, which appears in one or more of the following: *Annals of Internal Medicine, Blood, Journal of Clinical Oncology, Journal of National Cancer Institute, Lancet*, and *New England Journal of Medicine*; or which is included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations and the United States Pharmacopoeia-Drug Information.".

(b) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by adding "and" at the end of subparagraph (P); and

(3) by adding at the end the following new subparagraph:

"(Q) oral drugs prescribed for use in an anticancer chemotherapeutic regimen, for a medically indicated use (as described in subsection (t)(2)), if such drugs contain the same active ingredient that would be covered pursuant to subparagraph (A) or (B);".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1993.

Subtitle C—Provisions Relating to Parts A and B

SEC. 131. MEDICARE SELECT.

(a) AMENDMENTS TO PROVISIONS RELATING TO MEDICARE SELECT POLICIES.—

(1) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—Subsection (c) of section 4358 of OBRA-1990 is hereby repealed.".

(2) REQUIREMENTS OF MEDICARE SELECT POLICIES.—Section 1882(t)(1) (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

"(ii) in the case of a policy described in subparagraph (C)(i)—

"(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

"(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

"(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy, and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1)."

(b) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q)(1) (42 U.S.C. 1395ss(q)(1)) is amended:

(1) by striking "(1) Each" and inserting "(1)(A) Except as provided in subparagraph (B), each";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B)(i) In the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy; except that, if such individual moves to a geographic area where such issuer, or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

"(ii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.".

(c) CIVIL PENALTY.—Section 1882(t)(2) (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I); and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by inserting at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(d) EFFECTIVE DATES.—

(1) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (hereafter in this subsection referred to as the "NAIC") makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by this section, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this paragraph (such changed Regulation referred to in this subsection as the "1993 NAIC Model Regulation").

(2) SECRETARY STANDARDS.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 6-month period specified in paragraph (1), the Secretary of Health and Human Services (hereafter in this subsection as the "Secretary") shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted in June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this paragraph (such changed Regulation referred to in this subsection as the "1993 Federal Regulation").

(3) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State adopts the 1993 NAIC Model Regulation or the 1993 Federal Regulation, or

(ii) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 1993 NAIC Model Regulation or the 1993 Federal Regulation, but

(ii) having a legislature which is not scheduled to meet in 1994 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 132. REDUCTION IN PAYMENT FOR ERYTHROPOIETIN PROVIDED TO PATIENTS WITH END STAGE RENAL DISEASE.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I)) (42 U.S.C. 1395rr(b)(11)(B)(ii))(I) is amended—

(1) by striking "1991" and inserting "1993", and

(2) by striking "$11" and inserting "$10".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 133. APPLICATION TO RENAL DIALYSIS FACILITIES OF PROVISIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS RELATING TO ADVANCE DIRECTIVES.

(a) MEDICARE PROGRAM.—Section 1866(a)(1)(Q) (42 U.S.C. 1395cc(a)(1)(Q)) is amended by striking "and hospice programs" and inserting "hospice programs, and renal dialysis facilities".

(b) MEDICAID PROGRAM.—Section 1902(a)(57) (42 U.S.C. 1396(a)(57)) is amended by striking "hospice program" and inserting "hospice program, renal dialysis facility".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1993.

SEC. 134. EXTENSION OF SECONDARY PAYOR PROVISIONS FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.

Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) by striking "18-month" and inserting "24-month", and

(2) by adding at the end the following new sentence "Effective for items and services furnished after January 1, 1996, and on or before January 1, 1998, clauses (i) and (ii) shall be applied by substituting '18-month' for '12-month' each place it appears.".

SEC. 135. EXPANSION OF IMMUNOSUPPRESSIVE DRUG BENEFIT.

Subparagraph (J) of section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended by striking "within 1 year after the date of the transplant procedure;" and inserting "within, in the case of calendar year—

"(i) 1993 and 1994, 12 months,

"(ii) 1995, 24 months,

"(iii) 1996, 30 months, and

"(iv) 1997 and thereafter, 36 months,

after the date of the transplant procedure;".

SEC. 136. CLARIFICATION OF EXCEPTIONS TO PROHIBITED PHYSICIAN REFERRALS.

(a) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(1) by inserting "or buildings" after "building" each place it appears in paragraph (2)(A)(ii);

(2) by striking "centralized provision" in paragraph (2)(A)(ii)(II) and inserting "provision of all or a portion";

(3) by inserting "under a billing number assigned to the group practice" after "member" in paragraph (2)(B);

(4) by adding at the end of paragraph (2) the following new sentence: "Such requirements may not have the effect of prohibiting the group's clinical laboratory services from

accepting referrals from outside sources as authorized by State law and section 353 of the Public Health Service Act";

(5) by inserting "or a tax-exempt health services entity, wholly owned by, operated by, or affiliated with one or more not-for-profit, tax-exempt hospitals," after "hospital" in paragraph (4); and

(6) by redesignating paragraph (5) as paragraph (8) and by inserting after paragraph (4) the following new paragraphs:

"(5) RURAL PROVIDERS.—In the case of clinical laboratory services if the laboratory furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)).

"(6) SERVICES UNDER ARRANGEMENTS.—In the case of clinical laboratory services provided by a group practice laboratory under arrangements described in section 1861(w), if—

"(A) the arrangement is for identifiable services;

"(B) the amount of the remuneration under the arrangement is consistent with the fair market value of the services; and

"(C) the remuneration provided under the arrangement would be considered to be commercially reasonable even if no referrals were made between the parties.

"(7) SHARED LABORATORY FACILITIES.—In the case of clinical laboratory services furnished by a laboratory which is—

"(A) owned by a university, a medical school, or an organization or hospital which is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of section 501(c)(3) of such Code and which operates an approved medical training program; and

"(B) used in common under a written arrangement with a group practice whose physician-members constitute all or substantially all of the active medical and teaching staff of such university, medical school, organization or hospital.".

(b) RENTAL OF EQUIPMENT.—Section 1877(e)(1) (42 U.S.C. 1395nn(e)(1)) is amended—

(1) by inserting "or equipment" after "space" the first three places it appears; and

(2) by inserting "OR EQUIPMENT" after "SPACE" in the heading.

(c) DEFINITION OF GROUP PRACTICE.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

(1) by inserting "providing services in an entity" after "two or more physicians";

(2) by striking "in the name of" in subparagraph (B) and inserting "under a billing number assigned to";

(3) by inserting ", or, in the case of a not-for-profit corporation, previously determined consistent with such corporation's articles of incorporation and bylaws" after "group" in subparagraph (C);

(4) by inserting ", except that such standards may not have the effect of prohibiting the retention of physicians on a part-time basis as independent contractors if the group qualifies to receive payment for such physician's services under section 1842(b)(6)" after "regulation" in subparagraph (D); and

(5) by inserting "university, medical school, or" before "hospital" in the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989.

SEC. 137. GRADUATE MEDICAL EDUCATION RESIDENT AMOUNTS.

(a) IN GENERAL.—Section 1886(h)(2)(E) (42 U.S.C. 1395ww(h)(2)(E)) is amended—

(1) by striking "In the case" and inserting the following:

"(i) NO MEDICAL RESIDENCY PROGRAM.—In the case"; and

(2) by adding at the end of subparagraph (E) the following new clause:

"(ii) ONLY PRIMARY CARE RESIDENCY PROGRAM.—In the case of a hospital that in a cost reporting period beginning in fiscal year 1984 had a primary care residency training program as its only approved residency program and that had an FTE resident amount in its cost reporting period beginning in fiscal year 1984 of less than $10,000, the Secretary shall provide for an approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1992.

SEC. 138. HOSPICE NOTIFICATION.

(a) BY HOME HEALTH AGENCY.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new paragraph:

"(H) The right to be fully informed orally and in writing (in advance of coming under the care of the agency) of the individual's option to choose hospice care (as defined in section 1861(dd)(1)), and a description of such care, if—

"(i) a hospice providing services under this title is located within the agency's geographic area, or

"(ii) it is common practice to refer patients to such hospices located outside the geographic area.'.'

(b) BY SKILLED NURSING FACILITY.—Section 1819(c)(1)(B) (42 U.S.C. 1395i-3(c)(1)(B)) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "; and", and by inserting adding after clause (iii) the following new clause:

"(iv) inform each resident, orally and in writing, prior to or at the time of admission, of the resident's option to choose hospice care (as defined by section 1861(dd)(1)), and a description of such care, if—

"(I) a hospice providing services under this title is located within the facility's geographic area; or

"(II) it is common practice to refer patients to such hospices located outside the geographic area.".

(c) BY HOSPITAL.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 139. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA-1987 is amended—

(1) in paragraph (1) by striking "December 31, 1995" and inserting "December 31, 1998"; and

(2) in paragraph (4) by striking "March 31, 1996" and inserting "March 31, 1999".

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(1) in the last sentence of subsection (a) by striking "12 months" and inserting "36 months"; and

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply);".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA-90.

SEC. 140. INTEREST PAYMENTS.

With respect to claims received in the 12-month period beginning October 1, 1992, sections 1816(c)(2)(B)(ii)(IV) and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied by substituting "30 calendar days" for "24 calendar days" and "17 calendar days".

TITLE II—AMENDMENTS TO MEDICAID PROGRAM

Subtitle A—Technical Corrections

SEC. 201. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect as if included in the enactment of OBRA-1990.

SEC. 202. CORRECTIONS RELATING TO SECTION 4401 (REIMBURSEMENT FOR PRESCRIBED DRUGS).

(a) SECTION 1903.—

(1) IN GENERAL.—Paragraph (10) of section 1903(i) (42 U.S.C. 1396b(i)), as inserted by section 4401(a)(1)(B) of OBRA-1990, is amended to read as follows:

"(10)(A) with respect to covered outpatient drugs unless—

"(i) there is a rebate agreement in effect under section 1927 with respect to such drugs;

"(ii) section 1927(a)(3) applies; or

"(iii) section 1927(j) applies; and

"(B) with respect to an innovator multiple source drug (as defined in section 1927(k)) dispensed on or after July 1, 1991, if, under applicable State law, a less expensive multiple source drug could have been dispensed, unless reimbursement for such innovator multiple source drug is at or below the upper payment limit for the drug dispensed;".

(2) CONFORMING AMENDMENT.—The section heading of section 4401(a)(1) of OBRA-1990 is amended by striking "**AND DRUG USE REVIEW**".

(b) SECTION 1902.—Section 1902(a)(54) (42 U.S.C. 1396a(a)(54)), as inserted by section 4401(a)(2)(C) of OBRA-1990, is amended—

(1) in subparagraph (A) by striking "1927(k)(6)" and inserting "1927(k)"; and

(2) by striking "reporting requirements" and all that follows through "1927" and inserting "requirements of section 1927".

(c) SECTION 1927.—(1) Section 1927(a) (42 U.S.C. 1396r-8(a)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: "Any such agreement entered into prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.", and

(ii) in the third sentence, by striking "March" and inserting "April";

(B) in paragraph (2)—

(i) by striking "first", and

(ii) by striking the period at the end and inserting the following: ", except that such paragraph (and section 1903(i)(10)) shall not apply to drugs dispensed before April 1, 1991,

if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.".

(C) by amending paragraph (3) to read as follows:

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) and section 1903(i)(10) shall not apply to the dispensing of a covered outpatient drug if—

"(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the State plan;

"(B) the drug has been given a rating of 1-A by the Food and Drug Administration; and

"(C)(i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(4), or

"(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).'"; and

(D) in paragraph (4)—

(i) by striking "in compliance with" and inserting "in effect under", and

(ii) by striking "coverage of the manufacturer's drugs" and inserting "ingredient costs of the manufacturer's covered outpatient drugs covered".

(2) Section 1927(b) (42 U.S.C. 1396r-8(b)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "each calendar quarter (or periodically in accordance with a schedule specified by the Secretary)" and inserting "for a rebate period", and

(ii) by striking "dispensed under the plan during the quarter (or other period as the Secretary may specify)" and inserting "dispensed after December 31, 1990, for which payment was made under the State plan for such period";

(B) in paragraph (2)(A)—

(i) by striking "calendar quarter" and "the quarter" and inserting "rebate period" and "the period", respectively,

(ii) by striking "dosage units" and inserting "units of each dosage form and strength and package size",

(iii) by inserting "after December 31, 1990, for which payment was made" after "dispensed", and

(iv) by striking "during" and inserting "for";

(C) in paragraph (3)(A)—

(i) in clause (i), by striking "quarter" each place it appears and inserting "rebate period under the agreement",

(ii) in clause (i), by striking the open parenthesis before "for" and the close parenthesis after "drugs",

(iii) in clause (i), by striking "subsection (c)(2)(B)) for covered outpatient drugs" and inserting "subsection (c)(1)(C)) for each covered outpatient drug", and

(iv) in clause (ii), by inserting a comma after "this section" and after "1990";

(D) in paragraph (3)(B)—

(i) by striking "$100,000" and inserting "$10,000",

(ii) by striking "about charges or prices", and

(iii) by striking "or knowingly provides false information";

(E) in paragraph (3)(C)—

(i) in clause (i)—

(I) by striking "increased by", and

(II) by striking ", and, if" and inserting ". If",

(ii) in clause (ii), by striking "under this section" and inserting "under this section, or a wholesaler or direct seller,",

(iii) in clause (ii), by inserting "under subparagraph (A) or (B)" after "provides false information", and

(iv) in clause (ii), by striking "Such civil money penalties are" and inserting "Any such civil money penalty shall be";

(F) in paragraph (3)(D), by striking "wholesaler," the first time it appears and inserting "wholesaler or the"; and

(G) in paragraph (4)(B)—

(i) in clause (ii), by striking "such period" and inserting "the calendar quarter beginning at least 60 days",

(ii) in clause (ii), by striking "of the notice" and all through "the agreement)." and inserting "the manufacturer provides notice to the Secretary.",

(iii) by redesignating clause (iii) as clause (iv) and inserting after clause (ii) the following new clause:

"(iii) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.", and

(iv) by adding at the end the following new sentence: "Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.".

(3) Section 1927(c) (42 U.S.C. 1396r-8(c)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) by amending paragraph (1) to read as follows:

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate for a rebate period with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the State plan in the period reported by the State under subsection (b)(2), and

"(ii) subject to subparagraph (B)(ii), the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)(i)) of such average manufacturer price,

for the period.

"(B) RANGE OF REBATES REQUIRED.—

"(i) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' for rebate periods beginning—

"(I) before January 1, 1993, is 12.5 percent, and

"(II) after December 31, 1992, is 15 percent.

"(ii) TEMPORARY LIMITATION ON MAXIMUM REBATE AMOUNT.—In no case shall the amount applied under subparagraph (A)(ii) for a rebate period beginning—

"(I) before January 1, 1992, exceed 25 percent of the average manufacturer price, or

"(II) after December 31, 1991, and before January 1, 1993, exceed 50 percent of the average manufacturer price.

"(C) BEST PRICE DEFINED.—For purposes of this section, the term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer to any wholesaler, retailer, provider, nonprofit or for-profit entity, or governmental entity within the United States (excluding depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government). The term 'best price' shall be inclusive of cash discounts, free goods, volume discounts, and rebates (other than rebates under this section) and shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount.";

(B) by amending paragraph (2) to read as follows:

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) 1991 THROUGH 1993.—The amount of the rebate for a rebate period beginning before January 1, 1994, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, is increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the period reported by the State under subsection (b)(2), and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the rebate period exceeds such index for September 1990.

In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, subclause (II) of clause (ii) shall be applied by substituting 'the first full calendar quarter after the drug was marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the drug was marketed' for 'September 1990'.

"(B) AFTER 1993.—Except as provided in subparagraph (D), the amount of the rebate for a rebate period beginning after December 31, 1993, is increased by an amount equal to the product of—

"(i) the total number of all units of the single source and innovator multiple source drugs of a manufacturer for which payment was made under the State plan for the period reported by the State under subsection (b)(2), and

"(ii) the amount (if any) by which—

"(I) the current weighted average manufacturer price (as defined in subparagraph (C)(i)) for the single source and innovator multiple source drugs of the manufacturer for the period, exceeds

"(II) the base weighted average manufacturer price for such drugs of such manufacturer (as defined in subparagraph (C)(ii)).

"(C) WEIGHTED AVERAGE MANUFACTURER PRICE DETERMINATIONS.—

"(i) CURRENT WEIGHTED AVERAGE MANUFACTURER PRICE DEFINED.—For purposes of subparagraph (B), and except as provided in subparagraph (D), the term 'current weighted average manufacturer price' means, with respect to a rebate period, the amount described in clause (iii) divided by the amount described in clause (iv).

"(ii) BASE WEIGHTED AVERAGE MANUFACTURER PRICE.—For purposes of subparagraph (B), and except as provided in subparagraph

(D), the term 'base weighted average manufacturer price' means, with respect to a rebate period, the amount described in clause (iii) (by substituting in subclause (I) of such clause 'the average manufacturer price for each drug for the calendar quarter beginning July 1, 1990, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the rebate period exceeds such index for September 1990 (or, in the case of a covered outpatient drug approved for marketing after October 1, 1990, as of the first full calendar quarter after the drug was marketed, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the rebate period exceeds such index for the first full month of the first full calendar quarter after the drug was marketed)' for 'the average manufacturer price for each drug for such period'), divided by the amount described in clause (iv).

"(iii) TOTAL DOLLAR VOLUME (BASED ON CURRENT PRICE AND CURRENT DISPENSING).—The amount described in this clause for a manufacturer for a rebate period is the sum of the products (for all single source and innovator multiple source drugs of the manufacturer for which payment was made under State plans for the period) of—

"(I) the average manufacturer price for each such drug for such period, and

"(II) the total number of units of each such drug paid for under the State plans for the period.

"(iv) TOTAL UNITS PAID FOR.—The amount described in this clause for a manufacturer for a rebate period is the sum of the total number of units of the single source and innovator multiple source drugs of the manufacturer paid for under State plans for the period.

"(D) EXCLUSION OF CERTAIN NEW DRUGS.—

"(i) IF UNDUE HARDSHIP.—The Secretary may exclude certain drugs approved by the Food and Drug Administration on or after October 1, 1990, from the calculation of the weighted average manufacturer price under subparagraph (C) if the manufacturer demonstrates, through a petition in a form and manner prescribed by the Secretary, that undue hardship on the manufacturer would result if the drug is included in the calculation. The Secretary may promulgate guidelines to restrict the conditions under which the Secretary may consider such petitions.

"(ii) DETERMINATION OF REBATE FOR EXCLUDED DRUGS.—If a drug is excluded under clause (i) from the calculation of a rebate, the amount of the additional rebate with respect to that drug shall be determined as specified in subparagraph (A).

"(E) USE OF ALTERNATIVE FORMULA.—For rebate periods beginning during the 2-year period beginning July 1, 1991, the Secretary shall compare the total amount of additional rebates under subparagraph (A) to such total amount if subparagraph (B) applied to such rebate periods. Based on such comparison, the Secretary may propose and utilize an alternative formula for the purpose of calculating the additional rebate."; and

(C) by amending paragraph (3) to read as follows:

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the period, and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the period reported by the State under subsection (b)(2).

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' for rebate periods beginning—

"(i) before January 1, 1994, is 10 percent, and

"(ii) after December 31, 1993, is 11 percent.".

(4)(A) Section 1927(d) (42 U.S.C. 1396r-8(d)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "(6)" and "(5)" and inserting "(5)" and "(4)", respectively, and

(II) in subparagraph (B)(i), by striking "(k)(6)" and inserting "subsection (k)(5)";

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "anorexia or weight gain" and inserting "weight gain or loss", and

(II) by inserting after subparagraph (K) the following new subparagraph:

"(L) other drugs specified by the Secretary pursuant to paragraph (3).";

(iii) in paragraph (3)—

(I) by striking "The Secretary shall" and inserting "Subject to paragraph (5), the Secretary shall",

(II) by striking "(except with respect" and all that follows through "of this paragraph)",

(III) by striking "described in paragraph (2)", and

(IV) by inserting "described in paragraph (2)" after "medical uses,";

(iv) by striking paragraph (4) and by redesignating paragraphs (5) through (7) as paragraphs (4) through (6);

(v) in paragraph (4), as so redesignated, by striking "(k)(6)" and inserting "(k)(5)";

(vi) in paragraph (5), as so redesignated—

(I) by striking "for coverage" and inserting "from coverage"; and

(II) by striking "any new biological or drug" and inserting "any biological or drug which is a new chemical or molecular entity";

(vii) in paragraph (6), as so redesignated, by striking "provided" and inserting "if"; and

(viii) by striking the second sentence of paragraph (6), as so redesignated, by striking paragraph (8), and by inserting the following:

"(7) CONSTRUCTION WITH RESPECT TO FRAUD AND ABUSE.—Nothing in this section shall be construed to restrict the authority of a State to apply sanctions under this Act against any person or organization for fraud or abuse.".

(B) Section 1927(d)(4) (42 U.S.C. 1396r-8(d)(4)), as redesignated by subparagraph (A)(iv), shall first apply to drugs dispensed on or after July 1, 1991.

(5) Section 1927(e) (42 U.S.C. 1396r-8(e)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(e) DENIAL OF FEDERAL FINANCIAL PARTICIPATION IN CERTAIN CASES.—Section 1903(i)(10)(B) shall apply to payments made by the Secretary to a State under section 1903 with respect to innovator multiple source drugs dispensed on or after July 1, 1991.".

(6) Section 1927(f) (42 U.S.C. 1396r-8(f)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(f) PHARMACY REIMBURSEMENT LIMITS.—

"(1) NO REDUCTIONS IN REIMBURSEMENT LIMITS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1991, and ending on December 31, 1994—

"(i) a State may not reduce the payment limits established by regulation under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the limits in effect as of January 1, 1991, and

"(ii) except as provided in paragraph (2), the Secretary may not change the regulations under sections 447.331 through 447.334 of title 42, Code of Federal Regulations, in effect on November 5, 1990, governing the limits described in clause (i).

"(B) SPECIAL RULE.—If a State is not in compliance with the regulations described in subparagraph (A)(ii), subparagraph (A)(i) shall not apply to such State until such State is in compliance with such regulations.

"(2) ESTABLISHMENT OF UPPER PAYMENT LIMITS FOR CERTAIN MULTIPLE SOURCE DRUGS.—The Secretary shall establish an upper limit on the amount of payment which is eligible for Federal financial participation under this title for each multiple source drug for which the Food and Drug Administration has rated at least 3 formulations of such drug as therapeutically and pharmaceutically equivalent, regardless of whether all the formulations of such drug are rated as so equivalent.".

(7) Section 1927(g) (42 U.S.C. 1396r-8(g)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(g) DRUG USE REVIEW.—

"(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each State shall provide, by not later than January 1, 1993, for a drug use review program for covered outpatient drugs which—

"(i) meets the requirements of paragraph (2), and

"(ii) assures that prescriptions for such drugs are appropriate, medically necessary, and not likely to result in adverse medical results.

"(B) TREATMENT OF NURSING FACILITIES.—A State is not required in such State's drug use review program to provide for drug use review with respect to drugs dispensed to residents of nursing facilities which are in compliance with the requirements of subsections (b)(4)(A)(iii) and (c)(1)(D) of section 1919.

"(2) REQUIREMENTS OF PROGRAM.—

"(A) PROSPECTIVE DRUG USE REVIEW.—

"(i) IN GENERAL.—Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title. The review shall be designed to identify potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

"(ii) STANDARDS FOR COUNSELING BY PHARMACISTS.—As part of the prospective drug use review program of a State, applicable State law shall establish standards for counseling by pharmacists of individuals receiving benefits under this title. Such standards shall include, at a minimum, the following:

"(I) The pharmacist must offer to discuss (in person, face-to-face whenever practicable, or through access to a telephone service

which is toll free for long-distance calls) with each individual receiving benefits under this title or caregiver of such individual who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provision of such information), the pharmacist deems significant, which may include the following:

"(aa) The name and description of the medication.

"(bb) The dosage form, dosage, route of administration, and duration of drug therapy.

"(cc) Special directions and precautions for preparation, administration and use by the patient.

"(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

"(ee) Techniques for self-monitoring drug therapy.

"(ff) Proper storage.

"(gg) Prescription refill information.

"(hh) Action to be taken in the event of a missed dose.

"(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

"(aa) Name, address, telephone number, date of birth, (or age) and gender.

"(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

"(cc) Pharmacist comments relevant to the individual's drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

"(C) STANDARDS.—

"(i) IN GENERAL.—The program shall, on an ongoing basis, assess data on drug use against explicit standards determined by the State (using the sources described in clause (ii) as the basis for determining the standards for such assessment). Such assessment shall include monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse or misuse, and introduce remedial strategies in order to improve the quality of care and to conserve program funds or personal expenditures.

"(ii) SOURCES.—The sources described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, the American Medical Association Drug Evaluations, and the peer-reviewed medical literature.

"(D) EDUCATION AND INTERVENTION.—The program shall provide for, either directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists' associations or societies or other organizations as specified by the State, and using data provided by the State drug use review board on common drug therapy problems—

"(i) ongoing educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices; and

"(ii) ongoing interventions for physicians and pharmacists targeted toward common drug therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection, including, in appropriate instances, at least the following:

"(I) written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information;

"(II) use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and followup face-to-face discussions; and

"(III) intensified review or monitoring of selected prescribers or dispensers.

"(3) STATE DRUG USE REVIEW BOARD.—

"(A) ESTABLISHMENT.—Each State shall establish a drug use review board (hereafter in this paragraph referred to as the 'DUR Board'). The State shall disseminate information to physicians and pharmacists within the State concerning the duties and powers of the DUR Board and the basis for its standards.

"(B) MEMBERSHIP.—The members of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

"(i) The clinically appropriate prescribing of covered outpatient drugs.

"(ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs.

"(iii) Drug use review, evaluation, and intervention.

"(iv) Medical quality assurance.

The membership of the DUR Board shall be made up of at least ⅓ but no more than 51 percent licensed and actively practicing physicians and at least ⅓ licensed and actively practicing pharmacists.

"(C) RESPONSIBILITIES.—The DUR Board shall—

"(i) approve the standards and criteria for drug use review;

"(ii) recommend policies and procedures for the prospective and retrospective drug use review, education, and interventions required by this subsection;

"(iii) compile data on common drug therapy problems; and

"(iv) evaluate the effectiveness of the drug use review program in improving the quality of drug therapy and make recommendations for modifications as necessary.

"(4) ANNUAL REPORT.—Each State shall submit an annual report to the Secretary which shall include a description of the nature and scope of the drug use review program, a summary of the interventions used, and an assessment of the impact of such interventions on improving quality of care. Such report shall also include an estimate of the cost savings resulting from the operation of such program.

"(5) RESPONSIBILITY OF SECRETARY.—By July 1 of each year beginning with 1994, the Secretary shall submit an annual report to the Congress evaluating the effectiveness of States' drug use review programs utilizing each State's annual report.".

(8) Section 1927(h)(2)(A) (42 U.S.C. 1396r-8(h)(2)(A)), as inserted by section 4401(a)(3) of OBRA-1990, is amended by inserting "develops or" before "acquires".

(9) Section 1927(i)(2) (42 U.S.C. 1396r-8(i)(2)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(10) Section 1927(j) (42 U.S.C. 1396r-8(j), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(j) EXEMPTION FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this section shall not apply with respect to covered outpatient drugs dispensed by—

"(A) a health maintenance organization; or

"(B) a hospital that dispenses covered outpatient drugs using a drug formulary system, and bills the plan no more than the hospital's purchasing costs for covered outpatient drugs (as determined under the State plan).

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.".

(11) Section 1927(k) (42 U.S.C. 1396r-8(k)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1)—

(i) by striking "calendar quarter" and inserting "rebate period", and

(ii) by inserting before the period at the end the following: ", after deducting customary prompt pay discounts";

(B) in paragraph (2)—

(i) in the matter before clause (i) of subparagraph (A), strike "paragraph (5)" and insert "subparagraph (D)";

(ii) in subparagraph (A)—

(I) in clause (i), by striking "for safety and effectiveness" and by striking "or which is approved under section 505(j) of such Act"; and

(II) by striking "and" at the end thereof;

(iii) in subparagraph (B)—

(I) in clause (i), by striking "prescription," and inserting "prescription;";

(II) in clause (ii), by striking ", and" and inserting "; and"; and

(III) by striking "and" at the end thereof;

(iv) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).";

(C) in paragraph (3)—

(i) in subparagraph (E), by striking "**** emergency room visits",

(ii) in subparagraph (F), by striking "sevices" and inserting "services and services provided by an intermediate care facility for the mentally retarded",

(iii) in subparagraph (H), by inserting "services" after "dialysis",

(iv) in the matter following subparagraph (H), by striking "which is used" and insert-

ing "for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used", and

(v) in the matter following subparagraph (H), by inserting "as defined in paragraph (5)" after "indication";

(D) by striking paragraph (4) and redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(E) by amending paragraph (4), as so redesignated, to read as follows:

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.";

(F) in paragraph (5), as so redesignated, by striking ", which appears" and all that follows and inserting "or which is listed in any of the sources described in subsection (g)(2)(C)(ii).";

(G) in paragraph (6), as so redesignated—

(i) in subparagraph (A)(i), by striking "calendar quarter" and inserting "rebate period",

(ii) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)",

(iii) in subparagraph (A)(ii), by striking "an original new" and inserting "a new",

(iv) in subparagraph (A)(ii), by inserting "or product licensing application" after "application",

(v) in subparagraph (A)(iv), by striking "an original new" and inserting "a new",

(vi) in subparagraph (A)(iv), by inserting "or product licensing application" after "application",

(vii) in subparagraph (A)(iv), by striking "distributers" and inserting "distributors",

(viii) in subparagraph (C)(i), by striking "pharmaceuutically" and inserting "pharmaceutically", and

(ix) in subparagraph (C)(iii), by striking ", provided that" and inserting "if"; and

(H) by inserting after paragraph (6), as redesignated, the following new paragraph:

"(7) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.".

(12) Section 1927 (42 U.S.C. 1396r-8), as inserted by section 4401(a)(3) of OBRA-1990, is further amended by adding at the end the following:

"(l) MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supersede or affect provisions relating to maximum allowable cost limitations for payment by States for covered outpatient drugs, and rebates under this section shall be made without regard to whether or not payment by the State for such drugs is subject to such limitations or the amount of such cost limitations.".

(d) FUNDING.—Section 4401(b)(2) of OBRA-1990 is amended by striking the semicolon and all that follows and inserting a period.

(e) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA-1990 is amended—

(1) in subparagraph (A), by striking "1992" and inserting "1993";

(2) in subparagraph (A), by striking "10" and inserting "5"; and

(3) in subparagraph (C), by striking "regiment" and inserting "regimen".

(f) STUDIES.—Section 4401(d) of OBRA-1990 is amended—

(1) in paragraph (1)(A), by striking "other institutional facilities," and inserting "nursing facilities, intermediate care facilities for the mentally retarded,";

(2) in paragraph (1)(B), by striking "under this subsection" and inserting "under this paragraph";

(3) in paragraph (1)(B)(i), by striking "under this section" and inserting "under section 1927 of the Social Security Act";

(4) in paragraph (1)(B)(ii)—

(A) by striking "drug use review" the second time it appears and inserting "the type of drug use review that is", and

(B) by striking "under this section" and inserting "under such section";

(5) in paragraph (1)(B)(iii), by striking "under this title" and inserting "under title XIX of the Social Security Act";

(6) in paragraph (1)(C), by striking "May 1, 1991" and inserting "May 1, 1992";

(7) in paragraph (2), by striking "an annual report" and inserting "a report";

(8) in paragraph (3)—

(A) in subparagraph (A), by striking ", acting in consultation with the Comptroller General,",

(B) by indenting subparagraph (B) an additional 2 ems, and

(C) in subparagraph (B), by striking "December 31, 1991, the Secretary and the Comptroller General" and inserting "June 1, 1993, the Secretary";

(9) in paragraph (4)(A), by striking "each" and by striking the semicolon and inserting a comma;

(10) in paragraph (4)(B), by striking "December 31, 1991" and inserting "January 1, 1993";

(11) in paragraph (5)—

(A) by striking "Secretary of Health and Human Services" and inserting "Comptroller General",

(B) by striking "under this title" and inserting "under State medicaid programs", and

(C) by striking the second sentence and inserting the following new sentence: "The Comptroller General shall report to the Congress on the study not later than January 1, 1993."; and

(12) in paragraph (6), by striking "1 year after the date of enactment of this subsection" and inserting "January 1, 1993".

SEC. 203. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA-1990 is amended by striking "1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))" and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))".

SEC. 204. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)), as added by section 4501(b)(3) of OBRA-1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B) (42 U.S.C. 1396d(p)(4)(B)), as amended by section 4501(c)(1) of OBRA-1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

SEC. 205. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII) (42 U.S.C. 1396a(a)(10)(A)(i)(VII)), as added by section 4601(a)(10)(A)(iii) of OBRA-1990, is amended by striking "family;" and inserting "family; and".

(b) Section 1902(l) (42 U.S.C. 1396a(l)), as amended by section 4601(a)(1)(C) of OBRA-1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII),," and inserting "(a)(10)(A)(i)(VII),"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VI),".

(c) Section 1925 (42 U.S.C. 1396r-6), as amended by section 4601(a) of OBRA-1990, is amended—

(1) in subsection (a)(3)(C), by striking "(i)(VI)" and inserting "(i)(VI),", and

(2) in subsection (b)(3)(C)(i), by striking "(i)(IV) (i)(VI) (i)(VII), ," and inserting "(i)(IV), (i)(VI), (i)(VII),".

SEC. 206. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).

(a) Section 1902(a)(55) (42 U.S.C. 1396a(a)(55)), as added by section 4602(a)(3) of OBRA-1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "subsection" and inserting "paragraph", and

(B) by striking "(a)" each place it appears; and

(2) in subparagraph (A), by striking "1905(1)(2)(B)" and inserting "1905(l)(2)(B)".

(b) Section 1902(l)(1) (42 U.S.C. 1396a(l)(1)) is amended by striking "who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and".

SEC. 207. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in clause (X) in the matter following subparagraph (F) by striking "under one year of age" and inserting "under 6 years of age".

(b) Section 1902(s) (42 U.S.C. 1396a(s)), as added by section 4604(a) of OBRA-1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1)).".

(c) Section 1923(a)(2)(C) (42 U.S.C. 1396r-4(a)(2)(C)) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.".

SEC. 208. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) (42 U.S.C. 1396r-4(c)) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) (42 U.S.C. 1396r-4(d)(2)(A)(ii)) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA-1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

SEC. 209. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as added by section 4704(b)(1)(C) of OBRA-1990, is amended—

(1) by striking "of such center" the first place it appears;

(2) by striking "federally qualified" and inserting "Federally-qualified"; and

(3) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B) (42 U.S.C. 1396b(m)(2)(B)), as amended by section 4704(b)(2) of OBRA-1990, is amended by striking "except with respect to clause (ix) of subparagraph (A)," and inserting "(except with respect to clause (ix) of such subparagraph)".

(c) Section 1905(l)(2) (42 U.S.C. 1396d(l)(2)), as amended by section 4704(c) of OBRA-1990, is amended—

(1) in subparagraph (A)—

(A) by striking "Federally-qualififed" and inserting "Federally-qualified", and

(B) by striking "an patient" and inserting "a patient", and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "a entity" and inserting "an entity",

(B) by striking "or" at the end of clause (i),

(C) by striking the semicolon at the end of clause (ii)(II) and inserting a comma,

(D) by moving clause (ii) 4 ems to the left,

(E) by striking the comma at the end of clause (iii) and inserting ", or", and

(F) by striking "and includes an outpatient health program" and all that follows through "for good cause shown." and inserting the following:

"(iv) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).

In applying clause (iii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.".

SEC. 210. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

Section 1902(a)(32)(C) (42 U.S.C. 1396a(a)(32)(C)), as added by section 4708(a)(3) of OBRA-1990, is amended to read as follows:

"(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this clause for payment to the first provider.".

SEC. 211. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929 (42 U.S.C. 1396t), as added by section 4711(b) of OBRA-1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

(4) in subsection (e)(2)(B), by striking "fiscal year 1989" and inserting "fiscal year 1990";

(5) in subsection (f)(1), by striking "Community care" and inserting "community care";

(6) in subsection (g)(1)—

(A) by striking "SETTINGS" and inserting "SETTING"; and

(B) in subparagraph (B), by striking "setting." and inserting "setting in which home and community care under this section is provided.";

(7) in subsection (g)(2), by striking "community care" the second, third, and fourth place it appears and inserting "home and community care";

(8) in subsection (h)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) a nonresidential setting that serves 8 or more individuals; or"; and

(B) in subparagraph (B)—

(i) by striking "more than 8" and inserting "8 or more"; and

(ii) by inserting "(other than merely board)" after "personal services";

(9) in subsection (h)(2), by striking "community care" the second and third place it appears and inserting "home and community care";

(10) in the first sentence of subsection (j)(1)(A), by striking "the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty" and inserting "the State may provide for a civil money penalty and, in addition, may terminate the provider's participation under the State plan";

(11) in the first sentence of subsection (j)(2)(B), by striking "the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C)" and inserting "the Secretary may provide for a civil money penalty under subparagraph (C) and, in addition, terminate the provider's participation under the State plan";

(12) in subsection (k)(1)(A)(i)—

(A) by striking "(d)(2)(E)" and inserting "(d)(2)", and

(B) by striking "settings," and inserting "settings),";

(13) in subsection (l), by striking "State wideness" and inserting "Statewideness";

(14) in subsection (m)—

(A) in paragraph (1), by striking "The amount of funds" and inserting "Except as provided in paragraph (5), the amount of funds",

(B) in paragraph (2)—

(i) by striking "Individual Community Care Plan" and inserting "individual community care plan", and

(ii) by striking "an election period is the period of 4 or more calendar quarters" and inserting "an election period is a Federal fiscal year (or in the case of States described in paragraph (4)(C)(ii), the period beginning on April 1, 1993, and ending on September 30, 1993)",

(C) by amending paragraph (4) to read as follows:

"(4) ALLOCATION OF MEDICAL ASSISTANCE.—

"(A) IN GENERAL.—All of the funds available to be expended under paragraph (1) during a fiscal year shall be available as Federal medical assistance to the States electing to provide services under this section during such fiscal year.

"(B) GENERAL ALLOCATION FORMULA.—For each fiscal year, beginning with fiscal year 1994, a State which has provided a notice to the Secretary under paragraph (6)(A) shall be allocated an amount of the funds that may be expended under paragraph (1) for such fiscal year equal to the product of—

"(i) the total amount of funds that may be expended under paragraph (1) for such fiscal year; and

"(ii) the amount determined by dividing—

"(I) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(II) the total number of individuals age 65 or older residing in all States which have submitted notices to the Secretary under such paragraph during such fiscal year.

"(C) SPECIAL ALLOCATION FORMULA FOR FISCAL YEAR 1993.—

"(i) FIRST 6-MONTH PERIOD.—For the period beginning on October 1, 1992, and ending on March 31, 1993, each State for which a State plan amendment to provide home and community care under this section has been approved by the Secretary as of the date of enactment of the Medicare and Medicaid Amendments Act of 1992 shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the product of—

"(I) $65,000,000; and

"(II) the amount determined by dividing—

"(aa) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(bb) the total number of individuals age 65 or older residing in all States which are providing home and community care under this section on the date of enactment of such Act.

"(ii) SECOND 6-MONTH PERIOD.—For the period beginning on April 1, 1993, and ending on September 30, 1993, a State which has provided a notice to the Secretary under paragraph (6)(B) shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the amount such State would receive under the formula set forth in subparagraph (B) by substituting—

"(I) '(6)(B)' for '(6)(A)', and

"(II) '$65,000,000' for 'the total amount of funds that may be expended under paragraph (1) for such fiscal year'.

"(D) REALLOCATION OF FUNDS.—

"(i) FORMULA FOR REALLOCATION.—

"(I) GENERAL RULE.—Except as provided in subclause (II), within 60 days after the end of each fiscal year, beginning with fiscal year 1993, the Secretary shall pay to each State which provided services under this section during such fiscal year an amount equal to the product of—

"(aa) the total amount of funds that may be expended under paragraph (1) for such fiscal year which remain available at the end of such fiscal year; and

"(bb) the amount determined by dividing the unavailable Federal amount (as defined in clause (ii)) for such State by the total unavailable Federal amount for all the States which provided services under this section during such fiscal year.

"(II) SPECIAL RULE.—The amount determined for payment to a State under sub-

clause (I) shall not exceed the unavailable Federal amount for such State.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'unavailable Federal amount' means the excess of—

"(I) the amount a State would have received in Federal medical assistance based on such State's expenditures for services provided under this section but for the allocation under subparagraph (B), over

"(II) the amount of Federal medical assistance allocated to such State under subparagraph (B).", and

(D) by adding at the end the following new paragraphs:

"(5) CARRYOVER OF FUNDS TO NEXT FISCAL YEAR.—Beginning with fiscal year 1993, any funds available under paragraph (1) for a fiscal year which remain available after the application of subparagraphs (B), (C), and (D) of paragraph (4) shall be available under paragraph (1) to be expended in the following fiscal year.

"(6) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

"(A) IN GENERAL.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for any fiscal year (beginning with fiscal year 1994), a State shall submit not later than 3 months before the beginning of such fiscal year a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the fiscal year of the amount of Federal medical assistance that will be available to the State for such fiscal year (as established under paragraph (4)(B)).

"(B) SPECIAL RULE FOR FISCAL YEAR 1993.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for the period beginning on April 1, 1993, and ending on September 30, 1993, a State shall submit not later than March 1, 1993, a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later than April 1, 1993, the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the period beginning on April 1, 1993, and ending on September 30, 1993, of the amount of Federal medical assistance that will be available to the State for such period (as established under paragraph (4)(C)(ii)).."; and

(15) by adding at the end the following new subsection:

"(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term 'community care setting' means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).".

(b) Section 1905(r)(5) (42 U.S.C. 1396d(r)(5)) is amended by striking "1905(a)" and inserting "subsection (a) (other than services described in paragraph (22) or (23) of such subsection)".

(c) Section 4711(f) of OBRA-1990 is amended by striking "Act" each place it appears and inserting "section".

SEC. 212. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS).

(a) Section 1930 (42 U.S.C. 1396u), as added by section 4712(b)(2) of OBRA-1990, is amended—

(1) in subsection (b)—

(A) by striking "title the term," and inserting "title, the term",

(B) by striking "guardian" and inserting "guardian or", and

(C) by striking "3 other" and inserting "3";

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "program," and inserting "program", and

(B) in the second sentence, by striking "plan" each place it appears and inserting "program"; and

(3) in subsection (i), by striking "FUNDS" and inserting "FUNDS".

(b) Section 4712(c) of OBRA-1990 is amended—

(1) in paragraph (1), by inserting "of section 1930 of the Social Security Act" after "subsection (h)"; and

(2) in paragraph (2), by striking "this section" and inserting "such section".

SEC. 213. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F)—

(1) by striking "; and (XI)" and inserting ", (XI)";

(2) by striking "individuals, and (XI)" and inserting "individuals, and (XII)"; and

(3) by striking "COBRA continuation premiums" and inserting "COBRA premiums".

(b) Section 1902(u)(3) (42 U.S.C. 1396a(u)(3)), as added by section 4713(a)(2) of OBRA-1990, is amended by striking "title VI" and inserting "part 6 of subtitle B of title I".

SEC. 214. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA-1990 is amended by striking "AMENDMENTS.—Subsection (f) of section" and inserting "IN GENERAL.—Section".

SEC. 215. CORRECTIONS RELATING TO SECTION 4721 (PERSONAL CARE SERVICES).

Section 1905(a)(7) (42 U.S.C. 1396d(a)(7)), as amended by section 4721(a) of OBRA-1990, is amended to read as follows:

"(7)(A) home health services; and (B) personal care services which are (i) prescribed by a physician for an individual in accordance with a plan of treatment, (ii) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (iii) supervised by a registered nurse, (iv) furnished in a home or other location, and (v) furnished to an individual who is not an inpatient or resident of a nursing facility;".

SEC. 216. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPEND-DOWN OPTION).

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)), as amended by section 4723(a) of OBRA-1990, is amended by striking "to the State, provided that" and inserting "to the State if".

SEC. 217. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v) (42 U.S.C. 1396a(v)), as added by section 4724 of OBRA-1990, is amended—

(1) by striking "(v)(1)" and inserting "(v)"; and

(2) by striking "of the Social Security Act".

SEC. 218. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i) (42 U.S.C. 1396b(m)(2)(F)(i)), as amended by section 4732(b)(2)(B) of OBRA-1990, is amended by striking "or" before "with an eligible organization".

SEC. 219. CORRECTIONS RELATING TO SECTION 4744 (FRAIL ELDERLY WAIVERS).

(a) Section 1924(a)(5), as added by section 4744(b)(1) of OBRA-1990, is amended by striking "1986." and inserting "1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.".

(b) Section 603(c) of the Social Security Amendments of 1983 is amended—

(1) by striking "(c)" and inserting "(c)(1)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end the following new paragraph:

"(2) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

SEC. 220. CORRECTIONS RELATING TO SECTION 4745 (LOW INCOME FAMILIES DEMONSTRATION PROJECT).

Section 4745(e)(1) of OBRA-1990 is amended by adding at the end the following new sentence: "Such sums as may be available under the limitations set forth in this paragraph for fiscal years 1993 and 1994 shall be available until expended.".

SEC. 221. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA-1990 is amended—

(1) in subsection (a), by striking "subsection (c)" and inserting "subsection (b)";

(2) in subsection (b)(2)—

(A) by striking "preventative" each place it appears and inserting "preventive", and

(B) by adding a period at the end of subparagraph (J);

(3) in subsection (c)(1)—

(A) by striking "subsection (c)" and inserting "subsection (b)", and

(B) by striking "paragraphs (1) and (2) of";

(4) in subsection (d)—

(A) by striking "paragraph (3)" and inserting "subsection (b)", and

(B) by striking "paragraph (1)" and inserting "subsection (a)"; and

(5) in subsection (f), by adding at the end the following new sentence: "Such sums as may be available under the limitation set forth in this paragraph for fiscal year 1993 shall be available until expended.".

SEC. 222. CORRECTION RELATING TO SECTION 4751 (ADVANCED DIRECTIVES).

Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)), as amended by section 4751(b)(1) of OBRA-1990, is amended—

(1) by striking "1902(w)" and inserting "1902(w) and"; and

(2) by striking "1902(a)" and inserting "1902(w)".

SEC. 223. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).

(a) The paragraph (58) of section 1902(a) (42 U.S.C. 1396a(a)) added by section 4752(c)(1)(C) of OBRA-1990 is amended by striking "subsection (v)" and inserting "subsection (x)".

(b) Section 1903(i)(14)(A)(i) (42 U.S.C. 1396b(i)(14)(A)(i)) is amended to read as follows:

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,".

(c) Subparagraphs (A) and (B) of section 1903(i)(14) (42 U.S.C. 1396b(i)(14)) added by section 4752(e)(2) of OBRA-1990 are each amended—

(1) by striking "or" at the end of clause (v);

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

SEC. 224. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I)), as amended by section 4801(e)(3) of OBRA-1990, is amended by striking "not to exceed" before "14 days".

(b) Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)), as amended by section 4801(a)(4) of OBRA-1990, is amended by striking the comma before "or a new competency evaluation program.".

(c) Section 1919(b)(5)(G) (42 U.S.C. 1396r(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(d) Section 1919(f)(2)(B)(i) (42 U.S.C. 1396r(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(e) Section 1919(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(f) Section 1919(g)(3)(C) (42 U.S.C. 1396r(g)(3)(C)) is amended by striking "1903(a)(2)(D)" and inserting "1903(a)(2)(C)".

(g) Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(h) Section 4801(a)(6)(B) of OBRA-1990 is amended—

(1) by striking "The amendments" and inserting "(i) The amendments";

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

(3) by adding at the end the following new clause:

"(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii)(I) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.".

SEC. 225. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) (42 U.S.C. 1396d(o)(1)(A)) is amended—

(1) in the first sentence, by striking "intermediate care facility services" and inserting "for nursing facility services or intermediate care facility services for the mentally retarded"; and

(2) in the second sentence, by striking "or intermediate care facility" and inserting "(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded".

(b) Section 1915(d) (42 U.S.C. 1396n(d)) is amended—

(1) by striking "skilled nursing facility or intermediate care facility" each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting "nursing facility";

(2) in paragraph (2)(B)(i), by striking "skilled nursing or intermediate care facility" and inserting "nursing facility";

(3) in paragraph (5)(A), by striking "under" the first place it appears and inserting "(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under"; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking "furnished" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished"; and

(B) in clause (iii)(I), by striking "(regardless" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless".

(c)(1) Section 1924(h)(1)(A) (42 U.S.C. 1396r-5(h)(1)(A)) is amended to read as follows:

"(A)(i) is in a medical institution or nursing facility; or

"(ii) is described in section 1902(a)(10)(A)(ii)(VI) (except that for purposes of subsection (d), such term shall include such individual only if the State elects to apply such subsection to the individual); and".

(2) The amendments made by this subsection shall apply to home or community-based services furnished on or after January 1, 1993.

SEC. 226. CORRECTIONS TO DESIGNATIONS OF NEW PROVISIONS.

(a) PARAGRAPHS ADDED TO SECTION 1902(a).—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA-1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA-1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA-1990, immediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA-1990, by striking the period at the end and inserting "; and"; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA-1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(b) PARAGRAPHS ADDED TO SECTION 1903(i).—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA-1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA-1990, and by striking the period at the end and inserting a semicolon;

(2) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA-1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting "; or"; and

(3) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA-1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3), and by striking "; or" and inserting a period.

(c) PARAGRAPHS ADDED TO SECTION 1905(a).—

(1) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) by striking "and" at the end of paragraph (21);

(B) in paragraph (24), by striking the comma at the end and inserting "; and"; and

(C) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24), as so redesignated, after paragraph (23), as so redesignated.

(2) CONFORMING AMENDMENTS.—(A) Effective July 1, 1991, section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 4755(c)(1)(A) of OBRA-1990, is amended by striking "through (21)" and inserting "through (23)".

(B) Effective July 1, 1991, section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 4711(d)(1) of OBRA-1990, is amended by striking "through (22)" and inserting "through (24)".

(d) FINAL SECTIONS.—Section 1928 (42 U.S.C. 1396s), as redesignated by section 4401(a)(3) of OBRA-1990, is amended—

(1) by transferring such section to the end of title XIX; and

(2) by redesignating such section as section 1932.

SEC. 227. CORRECTIONS RELATING TO SECTION 4008 (CONFORMING AMENDMENTS TO MEDICARE).

(a) Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)), as amended by section 4008(h)(1)(D) of OBRA-1990, is amended by striking the comma before "or a new competency evaluation program.".

(b) Section 1819(b)(5)(G) (42 U.S.C. 1395i-3(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(c) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i-3(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(d) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(e) Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(f) Section 4008(h)(1)(F)(ii) of OBRA-1990 is amended—

(1) by striking "The amendments" and inserting "(I) The amendments";

(2) by striking "nursing facility" each place it appears and inserting "skilled nursing facility";

(3) by redesignating subclauses (I) through (V) as clauses (aa) through (ee); and

(4) by adding at the end the following new subclause:

"(II) Notwithstanding subclause (I) and subject to section 1819(f)(2)(B)(iii)(I) of the Social Security Act (as amended by clause (i)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a skilled nursing facility described in subclause (I) if, during the previous 2 years, clause (aa), (bb), (cc), (dd), or (ee) of subclause (I) did not apply to the facility.".

Subtitle B—Other Amendments to Medicaid Provisions

PART I—SUBSTANCE ABUSE PROVISIONS

SEC. 231. EXCEPTION TO IMD EXCLUSION FOR QUALIFIED COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS.

(a) EXCEPTION TO IMD EXCLUSION.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended in subparagraph (B) of the matter following paragraph (24), by inserting ", other than care and services (excluding room and board) for any individual who is participating in a qualified comprehensive substance abuse treatment program under title IV and who would be eligible for medical assistance under this title but for the application of

this subparagraph" after "institution for mental diseases".

(b) WAIVER AUTHORITY.—The Secretary of Health and Human Services shall waive the requirements of section 1902(a)(1) of the Social Security Act (relating to statewideness) and section 1902(a)(10)(B) of such Act (relating to the amount, duration, and scope of benefits) to the extent the Secretary determines that a waiver of such requirements is necessary and appropriate to enable a State to establish a comprehensive substance abuse treatment program described in title IV of such Act.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsection (b) shall apply to services furnished on or after July 1, 1993.

SEC. 232. COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.

(a) MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES FOR PREGNANT WOMEN, CARETAKER PARENTS, AND THEIR CHILDREN.—

(1) COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—

(A) OPTIONAL COVERAGE.—Section 1905 (42 U.S.C. 1396d), as amended by section 231, is further amended—

(i) in subsection (a)—

(I) by striking "and" at the end of paragraph (23);

(II) by redesignating paragraph (24) as paragraph (25); and

(III) by inserting after paragraph (23) the following new paragraph:

"(24) alcoholism and drug dependency residential treatment services (to the extent allowed and as defined in section 1931); and"; and

(ii) in subparagraph (B) of the matter following paragraph (25), as redesignated—

(I) by striking "room and board" and inserting "room and board, unless such payment is for services authorized under paragraph (24) to an individual described in section 1931(e)"; and

(II) by striking "title IV" and inserting "title IV or who is receiving alcoholism and drug dependency residential treatment services under paragraph (24)".

(B) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES DEFINED.—Title XIX (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

"ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES

"SEC. 1931. (a) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—The term 'alcoholism and drug dependency residential treatment services' means, subject to subsection (d), all the required services described in subsection (b) provided—

"(1) in a coordinated manner (either directly or through arrangements with public and nonprofit private entities or, for medical services, through arrangements with licensed practitioners or federally qualified health centers or, with respect to such services provided to individuals eligible to receive services in Indian Health Facilities, through or under arrangements with the Indian Health Service or a tribal or Indian organization that has entered into a contract with the Secretary under section 450(g) of the Indian Self-Determination and Education Assistance Act or section 1652 of the Indian Health Care Improvement Act) by a residential treatment facility that meets the requirements of subsection (c); and

"(2) pursuant to an individualized treatment plan prepared by the facility for each individual, which plan—

"(A) states specific objectives necessary to meet the individual's needs,

"(B) describes the services to be provided to the individual to achieve those objectives,

"(C) is established in consultation with the individual and reflects the preferences of the individual,

"(D) is periodically reviewed and (as appropriate) revised by the staff of the facility in consultation with the individual, and

"(E) is established in a manner which promotes the active involvement of the individual in the development of the plan and its objectives.

"(b) REQUIRED SERVICES DEFINED.—For purposes of subsection (a), the required services described in this subsection are as follows:

"(1)(A) Individual, group, and family counseling, addiction education and treatment, provided pursuant to individualized treatment plans, including opportunity for involvement in Alcoholics Anonymous and Narcotics Anonymous,

"(B) parenting skills training,

"(C) education concerning prevention of HIV infection, and

"(D) assessment of each individual's need for domestic violence counseling and sexual abuse counseling and provision of such counseling where needed.

Services under this paragraph shall be provided in a cultural context that is appropriate to the individuals and in a manner that ensures that the individuals can communicate effectively, either directly or through interpreters, with persons providing services.

"(2) Room and board in a structured environment with on-site supervision 24 hours a day.

"(3) Therapeutic child care or counseling for children of individuals in treatment.

"(4) Assisting parents in obtaining access to—

"(A) developmental services (to the extent available) for their preschool children,

"(B) public education for their school-age children, including assistance in enrolling them in school, and

"(C) public education for parents who have not completed high school.

"(5) Facilitating access to prenatal and postpartum health care for women, to pediatric health care for infants and children, and to other health and social services where appropriate and to the extent available, including services under title V, services and nutritional supplements provided under section 17(i) of the Child Nutrition Act of 1986, services provided by federally qualified health centers, outpatient pediatric services, well-baby care, and early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r)).

"(6) Ensuring supervision of children during times their mother or, if applicable, their caretaker parent, is in therapy or engaged in other necessary health or rehabilitative activities.

"(7) Planning for and counseling to assist reentry into society, including referrals to appropriate educational, vocational, and other employment-related programs (to the extent available), referrals to appropriate outpatient treatment and counseling after discharge (which may be provided by the same program, if available and appropriate) to assist in preventing relapses, transitional housing, and assistance in obtaining suitable affordable housing and employment upon discharge.

"(8) Continuing specialized training for staff in the special needs of residents and their children, designed to enable such staff to stay abreast of the latest and most effective treatment techniques.

"(c) FACILITY REQUIREMENTS.—The requirements of this subsection with respect to a facility are as follows:

"(1) The State has determined that the facility is able to provide (either directly or through arrangements with public and nonprofit private entities or, for medical services, through arrangements with licensed practitioners or federally qualified health centers or, with respect to such services provided to individual's eligible to receive services in Indian Health Facilities, through or under arrangements with the Indian Health Service or with a tribal or Indian organization that has entered into a contract with the Secretary under section 450(g) of the Indian Self-Determination and Education Assistance Act or section 1652 of the Indian Health Care Improvement Act) all the services described in subsection (b) and, except for Indian Health Facilities, meets all applicable State licensure or certification requirements for a facility of that type.

"(2)(A) Subject to subparagraph (B), the facility or distinct part thereof provides room and board and such facility is not licensed as a hospital and does not have more than 40 beds (including beds occupied by children).

"(B) The requirement under subparagraph (A) that a facility not be a hospital may be waived by the Secretary, if the Secretary finds that such facility is located in an Indian Health Service area and that such facility is the only, or one of the only, facilities available in such area to provide services under this section.

"(3) With respect to a facility providing the services described in subsection (b) to an individual eligible to receive services in Indian Health Facilities, such a facility demonstrates (as required by the Secretary) an ability to meet the special needs of Indian and Native Alaskan women.

"(d) LIMITATIONS ON COVERAGE.—(1) Subject to paragraph (2), services described in subsection (b) shall be covered in the amount, duration and scope therapeutically required for each eligible individual in need of such services, as determined by the State.

"(2) A State plan may limit coverage of alcoholism and drug dependency residential treatment services to a period of not less than 1 year. This paragraph shall not be construed as requiring a State plan to cover such services for any individual beyond the period for which such services are therapeutically required for that individual.

"(3) An assessment of an individual specified in subsection (e) seeking alcoholism and drug dependency residential treatment services shall be performed by the State to determine whether the individual is in need of alcoholism or drug dependency treatment services and, if so, the treatment setting (such as inpatient hospital, nonhospital residential, or outpatient) that is most appropriate in meeting the individual's health and therapeutic needs and the needs of the individual's dependent children, if any.

"(e) ELIGIBLE INDIVIDUALS DEFINED.—A State plan shall limit coverage under the plan of alcoholism and drug dependency residential treatment services under section 1905(a)(24) to the following individuals otherwise eligible for medical assistance under this title:

"(1) Women during pregnancy, and until the end of the 12th month following the termination of the pregnancy.

"(2) Children of a woman described in paragraph (1).

"(3) At the option of a State, caretaker parents and children of such parents.

"(f) OVERALL CAP ON MEDICAL ASSISTANCE AND PER-STATE BED LEVELS.—

"(1) IN GENERAL.—Federal expenditures with respect to alcoholism and drug dependency residential treatment services under this section shall be limited to the lesser of expenditures related to—

"(A) the total number of beds allocated by the Secretary for such services in any year under paragraph (3); or

"(B) 350 beds.

"(2) PARTICIPATION BY STATES.—

"(A) APPLICATIONS.—In order to receive Federal medical assistance for expenditures for alcoholism and drug dependency residential treatment services under this section beginning with fiscal year 1994, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall determine.

"(B) SELECTION BY THE SECRETARY.—During fiscal year 1993, the Secretary shall evaluate the applications described in subparagraph (A) and shall select no fewer than 5, and no more than 15, States to provide alcoholism and drug dependency residential treatment services under this section.

"(3) ALLOCATION OF BEDS.—

"(A) INITIAL ALLOCATION.—Not later than July 1, 1993, the Secretary shall allocate a number of beds with respect to alcoholism and drug dependency residential treatment services under this section to each State selected by the Secretary under paragraph (2)(B) based on the need for such beds as demonstrated in the application submitted by such State under paragraph (2)(A) and notify such State of such allocation.

"(B) ADDITIONAL ALLOCATIONS.—If the number of beds allocated by the Secretary under subparagraph (A) is less than 350, the Secretary shall continue to solicit and evaluate applications from States and shall select additional States to provide alcoholism and drug dependency residential treatment services under this section until 350 beds have been allocated.

"(g) MAINTENANCE OF STATE FINANCIAL EFFORT.—No payment shall be made to a State under section 1903 in a State fiscal year for alcoholism and drug dependency residential treatment services unless the State provides assurances satisfactory to the Secretary that the State is maintaining State expenditures for such services at a level that is not less than the average annual level maintained by the State for such services for the 2-year period preceding such fiscal year.

"(h) FEDERAL FINANCIAL PARTICIPATION.—The Secretary shall make Federal funds available for alcoholism and drug dependency residential treatment services beginning on October 1, 1993.".

(2) PAYMENT BASIS.—Section 1902(a)(13) (42 U.S.C 1396a(a)(13)) is amended—

(A) by striking "and" at the end of subparagraph (E),

(B) by adding "and" at the end of subparagraph (F), and

(C) by adding at the end the following new subparagraph:

"(G) for payment for alcoholism and drug dependency residential treatment services which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide all the services listed in section 1931(b) in conformity with applicable State and Federal laws, regulations, and quality and safety standards and to assure that individuals eligible for such services have reasonable access to such services;".

(3) CONFORMING AMENDMENTS.—

(A) CLARIFICATION OF OPTIONAL COVERAGE FOR SPECIFIED INDIVIDUALS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended, in the matter following subparagraph (F)—

(i) by striking "and (XII)" and inserting "(XII)", and

(ii) by inserting before the semicolon at the end the following: ", and (XIII) the making available of alcoholism and drug dependency residential treatment services to individuals described in section 1931(e) shall not, by reason of this paragraph (10), require the making of such services available to other individuals".

(B) CONTINUATION OF LIMITED MEDICAID ELIGIBILITY FOR PREGNANT WOMEN FOR 12 MONTHS FOLLOWING END OF PREGNANCY.—Section 1902 (42 U.S.C. 1396a) is amended—

(i) in subsection (e)(5)—

(I) by striking "(5) A woman" and inserting "(5)(A) Except as provided in subparagraph (B), a woman"; and

(II) by adding at the end the following new subparagraph:

"(B) A woman who, while pregnant, received alcoholism and drug dependency residential treatment services under section 1931, shall continue to be eligible for such services for a period of up to 12 months following the termination of such pregnancy, if such services are provided on a continuous basis during a period beginning during such pregnancy."; and

(ii) in subsection (l)(1)(A), by striking "the pregnancy)" and inserting "the pregnancy, or in the case of women receiving alcoholism and drug dependency residential treatment services under section 1931, for a period of up to 12 months following the termination of such pregnancy, if such services are provided on a continuous basis during a period beginning during such pregnancy)".

(C) REDESIGNATIONS.—Section 1902 (42 U.S.C. 1396a) is further amended—

(i) in subsection (a)(10)(C)(iv), by striking "(23)" and inserting "(24)", and

(ii) in subsection (j), by striking "(24)" and inserting "(25)".

(4) ANNUAL EDUCATION AND TRAINING IN INDIAN HEALTH SERVICE AREAS.—The Secretary of Health and Human Services in cooperation with the Indian Health Service shall conduct, on at least an annual basis, training and education in each of the 12 Indian Health Service areas for tribes, Indian organizations, residential treatment providers, and State health care workers regarding the availability and nature of residential treatment services available in such areas under the provisions of this Act.

(b) TRANSITION.—The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State under title XIX of the Social Security Act with regard to alcoholism and drug dependency residential treatment services (as defined in section 1931(a) of such Act) made available under such title on or after October 1, 1993, before the date the Secretary issues final regulations to carry out the amendments made by this section, if the services are provided under its plan in good faith compliance with such amendments.

PART II—CHILD IMMUNIZATION PROVISIONS

SEC. 241. BULK VACCINE PURCHASING SYSTEMS FOR INCREASED VACCINATION OF MEDICAID ENROLLED CHILDREN.

(a) STATE MEDICAID BULK PURCHASING SYSTEMS.—Section 1902 (42 U.S.C. 1396a) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (58);

(B) by striking the period at the end of paragraph (59) and inserting "; and"; and

(C) by inserting after paragraph (59) the following new paragraph:

"(60) provide for the establishment and operation of a vaccine replacement system (as described in section 1905(t)(1)), unless—

"(A) the State operates a universal vaccine distribution system (as described in section 1905(t)(2)), or

"(B) the State demonstrates to the satisfaction of the Secretary that a vaccine replacement system (as described in section 1905(t)(1)) would not be appropriate or cost-effective in the State."; and

(2) by adding at the end the following new subsection:

"(z) A State which establishes and operates a vaccine replacement system (as described in section 1905(t)(1)) under subsection (a)(60) shall not be precluded from making payments to providers on a fee-for-service basis for the provision of immunization services.".

(b) PAYMENTS TO STATES FOR MEDICAID BULK PURCHASING SYSTEMS.—Section 1903(a) (42 U.S.C. 1396b(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) an amount equal to 75 percent of the sums expended during such a quarter which occurs within any 4-quarter period during the period beginning October 1, 1993, and ending April 1, 1995, with respect to costs incurred during such quarter which are attributable to developing and establishing a vaccine replacement system (as defined in section 1905(t)(1)) or a universal vaccine distribution system (as defined in section 1905(t)(2)) with respect to individuals eligible for medical assistance under a State plan under this title; plus".

(c) DEFINITION.—Section 1905 (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) VACCINE REPLACEMENT SYSTEM AND UNIVERSAL VACCINE DISTRIBUTION SYSTEM.—

"(1) VACCINE REPLACEMENT SYSTEM.—The term 'vaccine replacement system' means a State program which purchases childhood vaccines on behalf of entities providing medical assistance to individuals eligible for such medical assistance under the State plan under this title at prices negotiated by the Centers for Disease Control childhood immunization program (or at a lower price, if available) and provides such vaccines free of charge to such entities for administration to such individuals.

"(2) UNIVERSAL VACCINE DISTRIBUTION SYSTEM.—The term 'universal vaccine distribution system' means a State program under which vaccines are purchased in bulk on behalf of public and private entities providing routine immunization services in the State and provided, at no charge, to such entities.".

(d) GUIDELINES RELATED TO VACCINE REPLACEMENT SYSTEMS.—Not later than April 1, 1994, the Secretary shall issue guidelines for the operation of any vaccine replacement system established by a State under section

1902(a)(60) of the Social Security Act which shall include standards for the safe storage and distribution of childhood vaccines.

(e) COMPLIANCE.—Each State with a State plan under subsection (a) of section 1902 of the Social Security Act shall comply with paragraph (60) of such subsection no later than October 1, 1994.

(f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c), and the provisions of subsections (d) and (e), shall be effective on the date of the enactment of this section.

SEC. 242. REIMBURSEMENT TO VACCINE MANUFACTURERS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(32)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) nothing in this paragraph shall be construed to prevent the making of such a payment to a manufacturer of a vaccine under a contract with the State, pursuant to which the manufacturer—

"(i) supplies without charge doses of vaccines to providers administering such vaccines to individuals eligible to receive medical assistance under the State plan,

"(ii) replaces such vaccines as needed, and

"(iii) charges the State agency the price under the most recent bid (determined once such bid price is made public) submitted by the manufacturer to the Centers for Disease Control with respect to the Centers for Disease Control childhood immunization program, plus a reasonable fee to cover shipping and handling of returns for doses administered by providers to individuals eligible to receive medical assistance under the State plan.".

(b) AGREEMENTS WITH THE STATE.—Section 1902(a)(27) (42 U.S.C. 1396a(a)(27)) is amended—

(1) by striking "under the State plan" and inserting "under the State plan and with any entity that is a manufacturer of a vaccine under a contract with the State under section 1902(a)(32)(E)"; and

(2) by striking "such person or institution" each place it appears and inserting "such person, institution, or entity".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 243. IMMUNIZATION OUTREACH DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall establish a demonstration program to enable States to establish innovative immunization outreach demonstration programs.

(b) ELIGIBLE STATES.—To be eligible to participate in the demonstration program under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

(c) APPROVAL OF APPLICATIONS.—The Secretary shall review and approve such applications submitted under subsection (b) as the Secretary determines appropriate.

(d) USE OF AMOUNTS.—Immunization outreach programs established under the demonstration program shall include—

(1) contacting parents concerning the immunization of children eligible for medical assistance under the State plan under title XIX of the Social Security Act,

(2) tracking the immunization status of such children, and

(3) such other activities as determined appropriate by the Secretary.

(e) REPORTS.—A State participating in the demonstration program conducted under this section shall annually prepare and submit to the Secretary a report with respect to the outreach activities conducted by such State under this section which shall include such information as the Secretary may require.

(f) LIMITS ON EXPENDITURES AND FUNDING.—

(1) IN GENERAL.—In conducting the demonstration program under this section, the Secretary shall limit the total amount of the Federal share of expenses incurred under title XIX of the Social Security Act to no more than $10,000,000 for fiscal years 1994 through 1997.

(2) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Payments to a State under this section with respect to expenditures made by such State under this section may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(g) REPORT.—Not later than September 30, 1998, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section.

PART III—MANAGED CARE WAIVER PROVISIONS

SEC. 251. MODIFICATION OF FREEDOM-OF-CHOICE WAIVERS.

(a) IN GENERAL.—Section 1915(b) (42 U.S.C. 1396n(b)) is amended by striking "(b)" and inserting "(b)(1)", by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and by adding at the end the following new paragraphs:

"(2) A waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods, unless the Secretary determines that a shorter period is appropriate.

"(3) The Secretary shall not grant a waiver under this subsection to restrict an individual's freedom of choice of provider with respect to an entity which is paid on a risk basis if such entity is responsible for the provision (directly or through arrangements with providers of services) of—

"(A) inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1905(a), or

"(B) any three or more of the services described in such paragraphs,

unless there is a choice of at least two such entities in an area and an individual has a choice between such entities.".

(b) CONFORMING AMENDMENT.—Section 1915(h) (42 U.S.C. 1396n(h)) is amended by inserting "(b)," before "(c)".

SEC. 252. WAIVER OF 75/25 RULE.

(a) IN GENERAL.—Section 1903(m)(2)(D) (42 U.S.C. 1396b(m)(2)(D)) is amended to read as follows:—

"(D)(i) In the case of a health maintenance organization that is a public or private entity, the Secretary may waive or modify the requirement described in subparagraph (A)(ii) if—

"(I) the entity is located in a medically underserved area;

"(II) the Secretary determines that the entity is unlikely to achieve compliance with such requirement without the expenditure of significant resources that would detract from the entity's ability to provide or improve patient care; and

"(III) the Secretary determines, pursuant to regulations issued by the Secretary, that the entity is likely to provide, or in the case of renewals, has provided and will continue to provide to individuals served by the entity, the access to and quality of care that would be available to such individuals if such individuals were not served by such entity.

"(ii) With respect to any private entity that is granted a waiver or modification under clause (i), the Secretary shall conduct an annual review of such entity's financial stability and provisions against the risk of insolvency. The Secretary shall publish the results of each annual review (in a manner that does not reveal any proprietary information). If the Secretary determines that such entity is not financially stable or has not made adequate provision against the risk of insolvency, the Secretary shall revoke such waiver or modification.

"(iii) Except as provided in clause (ii), a waiver under this subparagraph shall be for an initial term of 3-years and, upon the request of a State, shall be extended for additional 5-year periods, unless the Secretary determines that a shorter period is appropriate.".

(b) EXISTING WAIVERS.—Any waivers or modifications of the requirement under subsection (m)(2)(A)(ii) of section 1903 of the Social Security Act granted under subsection (m)(2)(D) of such section as in effect on the day before the effective date of this section shall continue in effect until such waivers expire.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall be effective upon the issuance by the Secretary of Health and Human Services of the regulations described in section 1903(m)(2)(D)(i)(III) of the Social Security Act.

SEC. 253. ROLLING ONE MONTH CONTINUOUS ELIGIBILITY FOR INDIVIDUALS ENROLLED IN AN HMO OR PCCM.

(a) IN GENERAL.—Section 1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended by adding at the end the following new subparagraph:

"(C) The State plan may provide, notwithstanding any other provision of this title, that an individual shall be deemed to continue to be eligible for benefits under this title until the end of the month in which such individual would (but for this paragraph) lose such eligibility because of excess income or resources, if such individual is enrolled with an entity described in subparagraph (A) or a primary care case management system operating under a waiver under section 1915(b).".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 1, 1993.

SEC. 254. ENHANCED MATCH RELATED TO QUALITY REVIEW.

(a) IN GENERAL.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)) is amended—

(1) by striking "organization or by" and inserting "organization, by"; and

(2) by striking "1902(d)" and inserting "1902(d), or by another organization approved by the Secretary which is unaffiliated with the State government or with any entity with a contract under subsection (m)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to reviews conducted on or after January 1, 1993.

SEC. 255. STATEWIDE WAIVER FOR CERTAIN COUNTY ADMINISTERED PROGRAMS.

(a) IN GENERAL.—Section 1915 (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

"(i) In the case of a State which has a managed care system to be operated by the political subdivisions within the State, the Secretary is authorized to approve, based on a

single application, a series of waivers of the applicable provisions of section 1902 (in accordance with the requirements of subsection (b)) to authorize the State to approve managed care plans to be operated by such subdivisions. The Secretary shall approve such waivers only if the application contains a description of all the managed care models to be implemented by the political subdivisions within the State and documentation showing that such models have been established by State laws or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on the date of the enactment of this section.

SEC. 256. EXTENSION OF A CERTAIN MEDICAID HEALTH MAINTENANCE ORGANIZATION WAIVER.

The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") may retroactively to October 1, 1991, extend until January 31, 1994, the waiver of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act, granted to the District of Columbia Chartered Health Plan, Inc., if the Secretary determines that such entity has made and continues to make reasonable efforts and progress towards achieving compliance with such requirement contained in such Act.

PART IV—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

SEC. 261. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished after January 1, 1993.

SEC. 262. PAYMENTS FOR SERVICES ARRANGED THROUGH PRIVATE NONPROFIT ENTITIES OR PUBLIC ENTITIES.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)), as amended by section 242, is further amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) in the case of services arranged through any private nonprofit entity or public entity under subsection (c), (d), or (g) of section 1915, payments made by such entity to providers of services shall be permitted if—

"(i) such entity maintains a clear system of records demonstrating that payments made are for services required under the individual's plan of care; and

"(ii) providers paid by such entity could otherwise receive payments under the State plan;

"(iii) the services for which payment is made by such entity are services covered under waivers granted to the State under subsection (c), (d), or (g) of section 1915;

"(iv) the services for which payment is made by such entity were furnished to individuals eligible to receive services under waivers granted to the State under subsection (c), (d), or (g) of section 1915; and

"(v) such entity does not retain any portion of the payment.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 263. AGREEMENTS WITH PRIVATE NONPROFIT ENTITIES AND PUBLIC ENTITIES ARRANGING FOR HOME AND COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1902(a)(27) (42 U.S.C. 1396a(a)(27)), as amended by section 242, is further amended by striking "1902(a)(32)(E)" and inserting "1902(a)(32)(E) or a private nonprofit entity or public entity that arranges for home or community-based services under subsection (c), (d), or (g) of section 1915"; and

(b) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1993.

SEC. 264. FREEDOM OF CHOICE RESTRICTION FOR CASE MANAGEMENT SERVICES WITH RESPECT TO HOME OR COMMUNITY-BASED SERVICES.

(a) DISCRETIONARY WAIVER PROGRAM FOR INDIVIDUALS OTHERWISE REQUIRING INSTITUTIONALIZATION.—The first sentence of section 1915(c)(3) (42 U.S.C. 1396n(c)(3)) is amended by striking the period at the end and inserting the following: ", and may include a waiver of the requirements of section 1902(a)(23) (relating to individual choice of providers) with respect to the provision of case management services in order to ensure that case managers for individuals receiving home or community-based services are capable of ensuring that such individuals receive needed services, if the State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services.".

(b) MANDATORY WAIVER PROGRAM FOR INDIVIDUALS 65 OR OLDER OTHERWISE REQUIRING INSTITUTIONALIZATION.—The first sentence of section 1915(d)(3) (42 U.S.C. 1936n(d)(3)) is amended by striking the period at the end and inserting the following: ", and may include a waiver of the requirements of section 1902(a)(23) (relating to individual choice of providers) with respect to the provision of case management services in order to ensure that case managers for individuals receiving home or community-based services are capable of ensuring that such individuals receive needed services, if State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 265. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST EFFECTIVE.

(a) IN GENERAL.—Section 1902(a)(25)(B) (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability, unless—

"(i) the amount of reimbursement the State can reasonably expect to recover for medical assistance furnished to an individual does not exceed the costs of such recovery, or

"(ii) with respect to case management services, the State demonstrates to the satisfaction of the Secretary that it is not cost-effective in the aggregate to seek such recovery with respect to such services furnished to individuals covered under the State plan, using methods specified by the Secretary which shall include a demonstration that such services are not generally covered by health insurers in the State;".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 1, 1993.

SEC. 266. STATE EXPENDITURES FOR MEDICAL ASSISTANCE WITH RESPECT TO HOME AND COMMUNITY-BASED SERVICES PROVIDED UNDER A WAIVER.

(a) IN GENERAL.—Section 1915(d)(5)(B) (42 U.S.C. 1396n(d)(5)(B)) is amended—

(1) in clause (i), by striking "times the number of years" and inserting "compounded annually for years"; and

(2) in clause (ii), by striking "times the number of years" and inserting "compounded annually for years".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the OBRA-87.

PART V—ELIGIBILITY PROVISIONS

SEC. 271. OPTIONAL COVERAGE FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (X),

(2) by striking the semicolon at the end of subclause (XI) and inserting "; or"; and

(3) by adding at the end the following new subclause:

"(XII) who are described in subclause (IX) and subsection (aa);".

(b) DESCRIPTION OF CHILDREN IN FOSTER HOMES, GROUP HOMES, OR PRIVATE INSTITUTIONS.—Section 1902 (42 U.S.C. 1396a), as amended by section 241, is further amended by adding at the end the following new subsection:

"(aa) Individuals described in this subsection are children who have been placed in foster care, including children placed under the auspices of a public child welfare agency, children placed by a private agency under contract to a public agency, and children placed by a licensed private child welfare agency.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1993.

SEC. 272. QUALIFIED MEDICARE BENEFICIARIES OUTREACH DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for the establishment of demonstration projects in no fewer than 5 and no more than 10 States for the purpose of providing information, counseling, and assistance to individuals who are likely to be eligible for benefits as qualified medicare beneficiaries (as defined in section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)), qualified disabled and working individuals as defined in section 1905(s) of such Act (42 U.S.C. 1396d(s)), and individuals described in section 1902(a)(10)(E)(iii) of such Act (42 U.S.C. 1396a(a)(10)(E)) (in this section referred to as "eligible individuals").

(b) APPLICATIONS.—

(1) IN GENERAL.—

(A) SUBMISSION.—Each State desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information (in addition to the information required under subparagraph (B)) as the Secretary may require.

(B) CONTENTS OF APPLICATION.—As part of an application submitted under subparagraph (A), a State shall submit a plan for an information, counseling, and assistance program. Such program shall—

(i) establish or improve upon an information, counseling, and assistance program that provides counseling and assistance to eligible individuals to assist such individuals in applying for medicare cost-sharing (as defined in section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396d(p)(3));

(ii) provide for acceptance of applications for medicare cost-sharing and information, counseling, and assistance at sites described in subsection (c);

(iii) establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to enrollment in and full implementation of such medicare cost-sharing program;

(iv) provide for a sufficient number of staff positions (including volunteer positions) necessary to provide the services of the information, counseling, and assistance program;

(v) provide for the collection and dissemination of timely and accurate enrollment information to staff members;

(vi) provide for training programs for staff members (including volunteer staff members);

(vii) provide for the coordination of the exchange of enrollment information between the staff of departments and agencies of the State government and the staff of the information, counseling, and assistance program;

(viii) make recommendations concerning consumer issues and complaints related to such enrollment to agencies and departments of the State government and the Federal Government responsible for providing such medicare cost-sharing;

(ix) establish an outreach program to provide the enrollment information and counseling described in clause (i) and the assistance described in clause (iii) to eligible individuals; and

(x) demonstrate, to the satisfaction of the Secretary, an ability to provide the services required under this subsection.

(2) APPROVAL OF APPLICATIONS.—The Secretary shall approve no fewer than 5 and no more than 10 of the applications submitted under paragraph (1)(B).

(c) ADMINISTRATION.—The State shall operate the information, counseling, and assistance program in locations other than State welfare offices, including Social Security Administration offices, facilities operated by Area Agencies on Aging, senior centers, and other locations determined by the Secretary in consultation with the State.

(d) MAINTENANCE OF EFFORT.—Any funds appropriated for the activities under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local program.

(e) ANNUAL APPLICANT REPORT.—A State that conducts a demonstration project under this section shall, not later than 180 days after the date on which such project begins, and for each year in which such project is conducted, issue a report to the Secretary that includes information concerning—

(1) the number of individuals served by the information, counseling, and assistance program of such State; and

(2) the problems that eligible individuals encounter in enrolling for medicare cost-sharing.

(f) REPORT TO CONGRESS.—Not later than 2 years after the first demonstration project under this section begins, and for each year in which a project is conducted under this section, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging of the House of Representatives that—

(1) summarizes the allocation of funds under this section and the expenditure of such funds;

(2) outlines the problems that eligible individuals encounter in enrolling for medicare cost-sharing as reported by the States in the reports submitted to the Secretary under subsection (e);

(3) makes recommendations that the Secretary determines to be appropriate to address the problems described in paragraph (2); and

(4) evaluates the effectiveness of counseling programs established under this program, and makes recommendations regarding continued authorization of funds for these purposes.

(g) DURATION.—A demonstration project provided under this section shall be conducted for a period not to exceed 3 years. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(h) LIMITS ON EXPENDITURES AND FUNDING.—

(1) IN GENERAL.—In conducting the demonstration projects under this section, the Secretary shall limit the total amount of the Federal share of expenses incurred under title XIX of the Social Security Act to no more than $15,000,000 for fiscal years 1994 through 1997.

(2) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Payments to a State under this section with respect to expenditures made by such State under this subsection may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

SEC. 273. EXTENSION OF CERTAIN DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS EXTENDING MEDICAID TO PREGNANT WOMEN AND CHILDREN NOT OTHERWISE ELIGIBLE.—

(1) IN GENERAL.—Section 6407 of OBRA-89 is amended—

(A) in subsection (d), by striking "3 years" and inserting "5 years";

(B) in subsection (f), by striking "$10,000,000 in each of fiscal years 1990, 1991, and 1992" and inserting "$30,000,000 for fiscal years 1990 through 1996"; and

(C) in subsection (g)(2), by striking "January 1, 1994" and inserting "one year after the termination of the demonstration projects".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA-89.

(b) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE ELIGIBLE.—

(1) EXTENSION OF DEMONSTRATION.—

(A) IN GENERAL.—Section 4745 of OBRA-90 is amended—

(i) in subsection (d), by striking "shall commence not later than July 1, 1991 and shall be conducted for a 3-year" and inserting "shall be conducted for a period not to exceed 5 years";

(ii) in paragraph (1) of subsection (e), by striking "$12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994" and inserting "$40,000,000 for fiscal years 1991 through 1997"; and

(iii) in paragraph (2) of subsection (f) by striking "January 1, 1995" and inserting "one year after the termination of the projects".

(B) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA-90.

(2) ADDITION OF CERTAIN PROJECTS ON A SUBSTATE BASIS.—

(A) IN GENERAL.—Section 4745 of OBRA-90, as amended by paragraph (1), is amended—

(i) by amending paragraph (1) of subsection (a) to read as follows:

"(a) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—

"(A) PROJECTS CONDUCTED ON A STATEWIDE BASIS.—Except as provided in subparagraph (B)(ii), the Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall enter into agreements with no fewer than 3 and no more than 4 States submitting applications under this section for the purpose of conducting demonstration projects to study the effect on access to, and costs of, health care of eliminating the categorical eligibility requirement for medicaid benefits for certain low-income individuals.

"(B) PROJECTS CONDUCTED ON A SUBSTATE BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), in entering into agreements with States under this section, the Secretary shall provide that at least 1 and no more than 2 of the projects are conducted on a substate basis.

"(ii) CERTAIN SUBSTATE PROJECTS.—

"(I) IN GENERAL.—In addition to the demonstration projects conducted under subparagraph (A) and clause (i), the Secretary shall provide that no more than 3 projects are conducted on a substate basis in substate areas with—

"(aa) a per capita income that does not exceed 70 percent of the national average per capita income, as determined by the Department of Commerce, and

"(bb) an unemployment rate, as determined by the employment statistics of the applicable State, that is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics,

at the time the applications required under subclause (II) are submitted.

"(II) SUBMISSION OF APPLICATIONS.—Each State desiring to conduct a demonstration project on a substate basis under this clause shall submit an application to the Secretary at such time and in such manner as the Secretary shall determine.

"(III) APPROVAL OF APPLICATIONS.—The Secretary shall review the applications submitted under subclause (II) and approve no fewer than 2 and no more than 3 such applications. The Secretary shall begin making Federal funds available for the projects approved under this subclause no later than April 1, 1993.

"(IV) SELECTION OF SUBSTATE AREAS.—In approving applications under subclause (III), the Secretary shall give a preference to remote communities—

"(aa) in which the health services delivery infrastructure is poorly developed,

"(bb) in which the residents face significant health risks due to lack of adequate public services,

"(cc) in which there is a health risk relating to communicable diseases or parasites, and

"(dd) in which the State or local government is prepared to make a financial contribution to the project in addition to such State's share of expenditures under title XIX of the Social Security Act.";

(ii) in subsection (e)(1), by adding at the end the following new subparagraph:

"(C) In addition to the amounts referred to in subparagraph (A), the Secretary shall make available $10,000,000 for fiscal years 1993 through 1997 for the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act for projects conducted under subsection (a)(1)(B)(ii).''; and

(iii) in paragraph (1) of subsection (f) by adding after subparagraph (C) the following new flush sentence:

"In addition to the issues described in subparagraphs (A), (B), and (C), for each substate project conducted under subsection (a)(1)(B)(ii), the Secretary shall provide an evaluation to determine the effect of the project with respect to whether the expanded availability of benefits under the medicaid program for the individuals residing in a community is effective in helping the community to develop a viable health care infrastructure.".

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall be effective on the date of the enactment of this section.

SEC. 274. PERIODS OF INELIGIBILITY FOR NURSING FACILITY SERVICES.

(a) IN GENERAL.—The last sentence of section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended to read as follows: "The period of ineligibility shall—

"(A) be equal to the lesser of—

"(i) 30 months, or

"(ii)(I) the total uncompensated value of the combined amount of all transferred resources, divided by

"(II) the average cost to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the community in which the individual is institutionalized, and

"(B) begin upon the discovery by the State that resources have been transferred.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to resources transferred on or after January 1, 1993.

PART VI—OTHER PROVISIONS

SEC. 281. DRUG PRICE REBATE AGREEMENTS.

(a) MEDICAID REBATE AGREEMENTS.—

(1) MINIMUM REBATE PERCENTAGES INCREASED.—Section 1927(c)(1)(B)(i) (42 U.S.C. 1396r-8(c)(1)(B)(i)) is amended—

(A) by amending subclause (II) to read as follows:

"(II) after December 31, 1992, and before January 1, 1994, is 15.7 percent," and

(B) by adding at the end the following new subclauses:

"(III) after December 31, 1993, and before January 1, 1995, is 15.4 percent,

"(IV) after December 31, 1994, and before January 1, 1996, is 15.2 percent, and

"(V) after December 31, 1995, is 15.1 percent.".

(2) MODIFICATION OF BEST PRICE DEFINITION.—Section 1927(c)(1)(C) (42 U.S.C. 1396r-8(c)(1)(C)) is amended—

(A) by striking "For purposes of this section" and inserting "(i) For purposes of this section",

(B) by inserting "supply schedule prices or prices paid by any entity described in clause (ii), and" after "excluding", and

(C) by adding at the end the following new clause:

"(ii) An entity described in this clause is—

"(I) a Federally qualified health center (as defined in section 1905(l)(2)(B),

"(II) an alcohol or drug treatment entity or mental health entity receiving assistance under title V or title XIX of the Public Health Service Act;

"(III) a family planning project described in section 1001 of the Public Health Service Act;

"(IV) an entity receiving assistance under title XXVI of the Public Health Service Act;

"(V) a black lung clinic authorized under the Public Health Service Act;

"(VI) a clinic that treats sexually transmitted diseases and is authorized under section 318 of the Public Health Service Act;

"(VII) an entity receiving funds to provide primary health services to residents of public housing under section 340A of the Public Health Service Act;

"(VIII) a non-Federal entity authorized under the Indian Self-Determination Act;

"(IX) a tuberculosis clinic receiving assistance under section 317(j)(2) or 317(k)(2) of the Public Health Service Act; or

"(X) a satellite entity of any of the entities described in subclauses (I) through (IX).

This clause shall apply to an entity only if such entity is principally engaged in the purpose for which funding is provided under the Public Health Service Act. An entity with respect to which funds are provided under the Public Health Service Act and which is a distinct part of a larger organization (whether or not it is legally distinct) shall be treated as a separate entity for purposes of this clause.

(3) ADDITIONAL DEFINITIONS.—Section 1927(k) (42 U.S.C. 1396r-8(k)) is amended by adding at the end thereof the following new paragraph:

"(8) SUPPLY SCHEDULE.—The term 'supply schedule' means Group 65 of the Federal Supply Schedule.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after January 1, 1993.

SEC. 282. CLARIFICATION OF COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES PERFORMED OUTSIDE THE MATERNITY CYCLE.

(a) IN GENERAL.—Section 1905(a)(17) (42 U.S.C. 1396d(a)(17)) is amended by inserting before the semicolon at the end the following: ", and without regard to whether or not the services are concerned with the management of mothers and newborns throughout the maternity cycle".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after October 1, 1993.

SEC. 283. CRITERIA FOR MAKING DETERMINATIONS OF DENIAL OF PAYMENT TO STATES.

(a) IN GENERAL.—Section 1903 (43 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x)(1) In any case in which the Secretary proposes to disallow under section 1116(d) a claim by a State under this section and the State exercises its right of reconsideration under section 1116(d), the Departmental Appeals Board established in the Department of Health and Human Services shall, if such Board upholds the basis for the disallowance, determine whether the amount of the disallowance should be reduced. In making this determination, the Board shall take into account (to the extent the State makes a showing) factors which shall include, but not be limited to—

"(A) whether the basis of the disallowance was procedural in nature;

"(B) whether the amount of the disallowance is proportionate to the error or deficiency on which the disallowance is based;

"(C) whether the basis of the disallowance constitutes noncompliance that prevented or materially affected the provision of appropriate services of recipients eligible under this title; or

"(D) whether Federal guidance with respect to the action that is the basis for the proposed disallowance was insufficient and the State made good faith efforts to conform its action to the intent of the applicable Federal statute or regulation.

"(2) No disallowance shall be taken or upheld if action of the State on which the disallowance would be based is consistent with its approved State plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

SEC. 284. CERTIFICATION OF ADDITIONAL PAYMENT TO PUERTO RICO UNDER MEDICAID.

Section 1108(c)(1) (42 U.S.C. 1308(c)(1)) is amended by striking "and (C) $79,000,000 for fiscal year 1990 (and each succeeding fiscal year)" and inserting "(C) $79,000,000 for fiscal years 1990, 1991, 1992, and 1993, (D) $89,000,000 for fiscal year 1994, (E) $91,000,000 for fiscal years 1995 and 1996, and (F) $94,000,000 for fiscal year 1997 (and each succeeding fiscal year)".

SEC. 285. EXPENDITURES FOR COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.

(a) IN GENERAL.—Section 1930(j) (42 U.S.C. 1396u(j)) is amended by striking ", and for fiscal years thereafter such sums as provided by Congress", and by adding at the end the following new sentence: "Beginning with fiscal year 1993, any funds available under this paragraph for a fiscal year which remain available at the end of the fiscal year shall be available to be expended in the following fiscal year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the OBRA-1990.

SEC. 286. NATIVE HAWAIIAN HEALTH CENTERS.

(a) IN GENERAL.—Section 1905(l)(2)(B)(iv) (42 U.S.C. 1396d(l)(2)(B)(iv)) is amended by striking the period at the end and inserting "or is a native Hawaiian health center operated under the Native Hawaiian Health Care Act of 1988.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after October 1, 1992.

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. EVALUATIONS OF MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAMS.

(a) IN GENERAL.—Section 502 (42 U.S.C. 702) is amended by adding at the end the following new subsection:

"(e) During any fiscal year when the amount appropriated under section 501(a) is not less than the amount authorized under such section, such portion of the appropriations for that fiscal year under such section as the Secretary may determine, but not exceeding 1 percent thereof, shall be available for evaluations to be conducted by the Secretary (directly or by grants or contracts) of the programs for which such appropriations are made and, in the case of allotments from any such appropriations, the amount avail-

able for allotments shall be reduced accordingly.".

(b) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—Section 501(a) (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (1), by striking "$686,000,000 for fiscal year 1990" and inserting "$686,000,000 for fiscal years 1990, 1991, and 1992, and $692,860,000 for fiscal year 1993".

(c) ADDITIONAL RESPONSIBILITIES FOR ENTITY ADMINISTERING PROGRAM.—Section 509(a) (42 U.S.C. 709(a)) is amended—

(1) by striking "and" at the end of paragraphs (6) and (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) program evaluations as described in section 502(e).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

DANFORTH (AND BOND) AMENDMENT NO. 3319

Mr. DOLE (for Mr. DANFORTH, for himself and Mr. BOND) proposed an amendment to amendment No. 3318 proposed by Mr. BENTSEN to the bill H.R. 11, supra, as follows:

In section 137, amend subsection (b) to read as follows:

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1990, except that for cost reporting periods beginning on or before September 30, 1992, payments required by the amendments made by subsection (a) shall not be made prior to October 1, 1993.

After section 286, insert the following new section:

SEC. 287. DEMONSTRATION PROJECT TO STUDY THE EFFECT OF PROVIDING OUTREACH, ASSESSMENT, AND REFERRAL SERVICES THROUGH MEDICAID TO MENTALLY ILL HOMELESS INDIVIDUALS.

(a) ESTABLISHMENT.—Pursuant to section 1115 of the Social Security Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall provide for demonstration projects to be conducted in no fewer than 1 and no more than 2 States for providing outreach, assessment, and referral services to homeless mentally ill individuals in order to determine the extent to which—

(1) aggressive and repeated efforts to engage such individuals is effective in achieving stable housing arrangements, improving mental health status, and improving overall health status, including the prevention of communicable diseases such as tuberculosis, and

(2) providing a program under title XIX of the Social Security Act for such individuals is an appropriate method for increasing access to medical and social services for such individuals.

(b) REQUIREMENTS ON PROJECTS.—

(1) LOCATION.—Each State conducting a demonstration project under this section shall conduct such project in at least one metropolitan statistical area (as determined by the Bureau of the Census) with a population greater than 1,000,000.

(2) MOBILE OUTREACH TEAMS.—The State shall develop and implement mobile outreach teams to be located within each metropolitan statistical area in which the demonstration project is conducted to—

(A) identify individuals, without regard to whether such individuals are eligible for benefits under title XIX of the Social Security Act, who the mobile outreach teams have reasonable cause to believe may be suffering from a severe mental disorder and who appear to have no permanent residence; and

(B) offer such individuals services, either by providing transport to an assessment-referral center (as described in paragraph (3)) or by providing appropriate assistance to such individuals on site.

If an individual identified under subparagraph (A) refuses such services or assistance from the mobile outreach team and such team has reasonable cause to believe that such individual meets the criteria for involuntary commitment, the team shall provide information on the individual to the appropriate authorities recognized under the State's civil commitment laws.

(3) ASSESSMENT-REFERRAL CENTERS.—The State shall designate assessment-referral centers to be located in each metropolitan statistical area in which the demonstration project is conducted to make available to the individuals identified under paragraph (2)(A)—

(A) services for a period not to exceed 30 days, including—

(i) basic necessities, including clothing, personal hygiene needs, food, blankets, and access to bathing facilities;

(ii) temporary room and board, and referral to appropriate transitional or permanent housing;

(iii) screening and treatment for medical conditions (other than psychiatric conditions), including screening and treatment for tuberculosis, if necessary;

(iv) psychiatric assessments, including assessments regarding alcoholism and drug abuse;

(v) mental health case management services (as defined in section 1915(g)(2) of the Social Security Act);

(vi) emergency psychiatric intervention, if necessary;

(vii) assistance in applying for Federal, State, and local entitlements; and

(viii) referral to other needed services, including employment and job-training services, available in the community;

(B) an individualized treatment plan, developed in cooperation with the individual, for the provision of any necessary mental health services for which payment may be made under the State plan under title XIX of the Social Security Act; and

(C) at the option of the State, any other mental health services for which Federal financial participation is available under title XIX of the Social Security Act, whether or not the service is covered under the State plan.

(4) PRESUMPTIVE ELIGIBILITY PERIOD.—The State may, during a presumptive eligibility period, provide for making available psychiatric and medical services for which payment may be made under the State plan under title XIX of the Social Security Act to individuals described in paragraph (2)(A) through individualized treatment plans.

(c) APPLICATIONS.—

(1) SUBMISSION.—Not later than February 1, 1993, each State desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application, in such manner and containing such information as the Secretary may require.

(2) APPROVAL OF APPLICATIONS.—

(A) IN GENERAL.—Not later than June 1, 1993, the Secretary shall approve no fewer than 1 and no more than 2 of the applications submitted under paragraph (1).

(B) CONSIDERATION OF APPLICATIONS.—In considering the applications submitted by States under paragraph (1), the Secretary shall give a preference to States that have—

(i) linkage and access within the State to a metropolitan service-research project for homeless mentally ill people which can provide, for comparative evaluation purposes, experimentally designed research data on the outcomes of providing an outreach and case management program to homeless individuals,

(ii) a structure under which mental health services and substance abuse services are administered in an integrated or coordinated manner,

(iii) mental health and substance abuse rehabilitation services covered under the State medicaid plan, and

(iv) the ability to provide the services listed in subsection (b)(3) beginning no later than October 1, 1993.

(d) DEFINITIONS.—For purposes of this section:

(1) MOBILE OUTREACH TEAM.—The term "mobile outreach team" means a group of individuals designated by the State whose duty it is to seek out homeless persons who are mentally ill and offer them assistance and access to health, mental health, and social services. Such a team shall be comprised of 2 or more people with appropriate training or experience and at least one of whom shall be a qualified mental health professional.

(2) ASSESSMENT-REFERRAL CENTER.—The term "assessment-referral center" means any facility designated by the State which can provide directly, or by direct arrangement with other public or private agencies, the services listed in subsection (b)(3) except that no correctional institution or facility, shall be considered an assessment-referral center for purposes of this paragraph.

(3) SEVERE MENTAL DISORDER.—The term "severe mental disorder" means an illness, disease, organic brain disorder, or other condition which—

(A) substantially impairs an individual's thought, perception of reality, emotional process, or judgment; or

(B) substantially impairs behavior as manifested by recent disturbed behavior, (except that mental retardation, epilepsy, or other developmental disabilities do not, in themselves, constitute a severe mental disorder for purposes of this paragraph).

(4) INDIVIDUALIZED TREATMENT PLAN.—The term "individualized treatment plan" means a plan for an individual brought to an assessment-referral center which shall describe what medical or psychiatric treatment, if any, the individual will receive after leaving the assessment-referral center, as well as any referrals or other services deemed appropriate.

(5) PRESUMPTIVE ELIGIBILITY PERIOD.—The term "presumptive eligibility period" means the period that—

(A) begins with the date—

(i) after which an individualized treatment plan has been developed, and

(ii) on which a qualified provider determines, on the basis of preliminary information, that the individual is otherwise eligible under the State plan under title XIX of the Social Security Act, and

(B) ends with (and includes) the earlier of—

(i) the day on which determination is made with respect to eligibility of the individual for medical assistance under such State plan, or

(ii) the day that is 60 days after the date on which the provider makes the determination referred to in subparagraph (A)(ii).

(e) LIMIT ON FEDERAL SHARE OF EXPENDITURES AND FUNDING.—

(1) LIMIT ON FEDERAL SHARE OF EXPENDITURES.—In conducting the demonstration projects under this section, the Secretary shall limit the total amount of the Federal share of expenses incurred under title XIX of the Social Security Act to no more than $24,000,000.

(2) FEDERAL FUNDING.—The Secretary shall pay to each State conducting a demonstration project under this section for each quarter (beginning on or after October 1, 1993) in which such project is conducted an amount determined in accordance with section 1903(a) of the Social Security Act except that no percentage applied to any category of expenditures incurred by the State in any such quarter shall be less than the State's Federal medical assistance percentage (as defined in section 1905(b) of such Act).

(f) DURATION.—A demonstration project under this section shall be conducted for a period of no more than 5 years plus an additional period of up to 6 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(g) REPORTS.—Each State conducting a demonstration project shall arrange for an independent evaluation of such project and shall transmit a report on the results of such evaluation to the Secretary not more than 6 months after the conclusion of the project. Such report shall—

(1) evaluate the extent to which the project was successful in assisting homeless mentally ill individuals to—

(A) obtain needed temporary housing as an immediate alternative to homelessness,

(B) obtain mental health treatment and services,

(C) obtain needed substance abuse treatment and services,

(D) obtain and maintain stable, permanent housing,

(E) improve mental health status,

(F) reduce chemical dependency, and

(G) improve health status, including prevention of communicable diseases, and

(2) evaluate the effectiveness and adequacy of title XIX of the Social Security Act for providing access to needed health, mental health, and social services to homeless individuals.

(h) PROVISIONS SUBJECT TO WAIVER.—The Secretary may waive such requirements of the Social Security Act as the Secretary determines to be necessary to carry out the purposes of this section.

FEDERAL FIRE PREVENTION AND CONTROL APPROPRIATIONS ACT

BRYAN AMENDMENT NO. 3320

Mr. SIMON (for Mr. BRYAN) proposed an amendment to the bill S. 1690 to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes, as follows:

In lieu of the matter proposed to be inserted by the Committee amendment to the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fire Administration Authorization Act of 1992".

TITLE I—UNITED STATES FIRE ADMINISTRATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) $25,550,000 for the fiscal year ending September 30, 1992;

"(E) $26,521,000 for the fiscal year ending September 30, 1993; and

"(F) $27,529,000 for the fiscal year ending September 30, 1994.".

SEC. 102. PRIORITY ACTIVITIES OF THE UNITED STATES FIRE ADMINISTRATION.

(a) PRIORITY ACTIVITIES.—In expending funds appropriated pursuant to the amendments made by section 101 of this Act, the United States Fire Administration shall give priority to—

(1) reducing the incidence of residential fires, especially in residences of the very old, the very young, or the disabled in urban and rural areas, through the development and dissemination of public education and awareness programs, through arson research and technical assistance programs, and through research and development on new technologies;

(2) working with State Fire Marshals and other State level fire safety offices to identify fire problems that are national in scope;

(3) disseminating information about the activities and programs of the United States Fire Administration to State and local fire services;

(4) enhancing the residential sprinkler programs, including research, demonstration activities, and technical assistance to the public and private sectors;

(5) enhancing research into sprinkler programs in areas or structures with limited or no domestic water supply;

(6) through the National Fire Academy, enhancing the residential and field program in support of State level training programs, particularly those that support the volunteer fire service; and

(7) strengthening programs that help protect the lives and safety of fire emergency medical services personnel, including research into causes of death and injuries, research and development of new technologies to mitigate and prevent injuries, dissemination of information, and technical assistance to State and local fire departments.

(b) REPORT TO CONGRESS.—The United States Fire Administration shall, within 1 year after the date of enactment of this Act, submit a report to the Congress on the activities undertaken pursuant to subsection (a)(1).

SEC. 103. REPORT ON IMPLEMENTATION OF HOTEL AND MOTEL FIRE SAFETY ACT OF 1990.

The United States Fire Administration shall, within 6 months after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on its progress in implementing the Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391; 104 Stat. 747), including amendments made by that Act. The report shall specify the nature of expenditures made as of the date of the report, as well as including an estimate of the costs and a specific schedule for implementation.

SEC. 104. LISTINGS OF DESIGNATED PLACES OF PUBLIC ACCOMMODATION.

Section 28 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2224) is amended—

(1) by striking "CERTIFIED" in the section heading; and

(2) in subsection (a)—

(A) by inserting "(Act through its Governor or the Governor's designee)" immediately after "each State" wherever it appears; and

(B) by striking "the Governor of the State or his designee certifies".

SEC. 105. FIRE PREVENTION AND CONTROL GUIDELINES FOR PLACES OF PUBLIC ACCOMMODATION.

(a) EXCEPTIONS FOR CERTAIN AUTOMATIC SPRINKLER SYSTEMS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) EXCEPTIONS.—(1) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce with an automatic sprinkler system installed before October 25, 1992, if the automatic sprinkler system is installed in compliance with an applicable standard (adopted by the governmental authority having jurisdiction, and in effect, at the time of installation) that required the placement of a sprinkler head in the sleeping area of each guest room.

"(2) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce to the extent that such place of public accommodation affecting commerce is subject to a standard that includes a requirement or prohibition that prevents compliance with a provision of National Fire Protection Association Standard 13 or 13-R. In such a case, the place of public accommodation affecting commerce is exempt only from that specific provision.".

(b) DEFINITIONS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by adding at the end of subsection (d), as redesignated by this section, the following new paragraph:

"(3) The term 'governmental authority having jurisdiction' means the Federal, State, local, or other governmental entity with statutory or regulatory authority for the approval of fire safety systems, equipment, installations, or procedures within a specified locality.".

SEC. 106. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

(a) AMENDMENT.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

"SEC. 31. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

"(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) The term 'affordable cost' means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office space in a building that is not so protected.

"(2) The term 'automatic sprinkler system' means an electronically supervised, inte-

grated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

"(A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

"(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto.

"(3) The term 'equivalent level of safety' means an alternative design or system (which may include automatic sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems.

"(4) The term 'Federal employee office building' means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment.

"(5) The term 'housing assistance'—

"(A) means assistance provided by the Federal Government to be used in connection with the provision of housing, that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

"(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act or the homeownership assistance program under section 235 of such Act; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 40 of the Federal Deposit Insurance Act; or the Resolution Trust Corporation under the affordable housing program under section 21A(c) of the Federal Home Loan Bank Act.

"(6) The term 'hazardous areas' means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto.

"(7) The term 'multifamily property' means—

"(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

"(B) in any other case, a residential building consisting of more than 4 residential units that are under one roof.

"(8) The term 'prefire plan' means specific plans for fire fighting activities at a property or location.

"(9) The term 'rebuilding' means the repairing or reconstructing of portions of a multifamily property where the cost of the alternations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

"(10) The term 'renovated' means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located.

"(11) The term 'smoke detectors' means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto.

"(12) The term 'United States' means the States collectively.

"(b) FEDERAL EMPLOYEE OFFICE BUILDINGS.—(1)(A) No Federal funds may be used for the construction or purchase of a Federal employee office building of 6 or more stories unless during the period of occupancy by Federal employees the building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the construction or purchase of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the building are protected by automatic sprinkler systems or an equivalent level of safety.

"(B)(i) Except as provided in clause (ii), no Federal funds may be used for the lease of a Federal employee office building of 6 or more stories, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,00 square feet of space is federally occupied, unless during the period of occupancy by Federal employees the entire Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the lease of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the entire Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(ii) The first sentence of clause (i) shall not apply to the lease of a building the construction of which is completed before the date of enactment of this section if the leasing agency certifies that no suitable building with automatic sprinkler systems or an equivalent level of safety is available at an affordable cost.

"(iii) Within 3 years after such date of enactment, and periodically thereafter, the Comptroller General shall audit a selection of certifications made under cause (ii) and report to Congress of the results of such audit.

"(2) Paragraph (1) shall not apply to—

"(A) a Federal employee office building that was owned by the Federal Government before the date of enactment of this section;

"(B) space leased in a Federal employee office building if the sapce was leased by the Federal Government before such date of enactment;

"(C) space leased on a temporary basis for not longer than 6 months;

"(D) a Federal employee office building that becomes a Federal employee office building pursuant to a commitment to move Federal employees into the building that is made prior to such date of enactment; or

"(E) a Federal employee office building that is owned or managed by the Resolution Trust Corporation.

Nothing in this subsection shall require the installation of an automatic sprinkler system or equivalent level of safety by reason of the leasing, after such date of enactment, of space below the sixth floor in a Federal employee office building

"(3) No Federal funds may be used for the renovation of a Federal employee office building of 6 or more stories that is owned by the Federal Government unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the renovation of any other Federal employee office building that is owned by the Federal Government unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(4) No Federal funds may be used for entering into or renewing a lease of a Federal employee office building of 6 or more stories that is renovated after the date of enactment of this section, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for entering into or renewing a lease of any other Federal employee office building that is renovated after such date of enactment of this section, unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(c) HOUSING.—(1)(A) No Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless—

"(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after the date of enactment of this section, the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system (or equivalent level of safety) and hard-wired smoke detectors; and

"(ii) in the case of any other housing, the housing, before—

"(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of such date of enactment; or

"(II) the expiration of 3 years after such date of enactment, whichever occurs first, is protected by hard-wired smoke detectors.

"(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

"(2)(A)(i) Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

"(ii) For purposes of clause (i), the term 'newly constructed multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is newly constructed after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

"(iii) Clause (i) shall not apply to any multifamily property for which, before such date of enactment, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

"(B)(i) Except as provided in clause (ii), housing assistance may not be used in con-

nection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code), as in effect at the earlier of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

"(ii) If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101, the requirement under clause (i) shall not apply with respect to such specific provision.

"(iii) For purposes of this subparagraph, the term 'rebuilt multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is rebuilt after the last day of the second fiscal year that ends after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

"(C) After the expiration of the 180-day period beginning on the date of enactment of this section, housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hardwired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

"(d) REGULATIONS.—The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense, within 2 years after the date of enactment of this section, shall promulgate regulations to further define the term 'equivalent level of safety', and shall, to the extent practicable, base those regulations on nationally recognized codes.

"(e) STATE AND LOCAL AUTHORITY NOT LIMITED.—Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control. Nothing in this section shall be construed to reduce fire resistance requirements which otherwise would have been required.

"(f) PREFIRE PLAN.—The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

"(g) REPORTS TO CONGRESS.—(1) Within 3 years after the date of enactment of this section, and every 3 years thereafter, the Administrator of General Services shall transmit to Congress a report on the level of fire safety in Federal employee office buildings subject to fire safety requirements under this section. Such report shall contain a description of such buildings for each Federal agency.

"(2) Within 10 years after the date of enactment of this section, each Federal agency providing housing to Federal employees or housing assistance shall submit a report to Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

"(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

"(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation, including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

"(ii) include a comparative analysis of compartmentation using fire resistive materials and compartmentation using noncombustible materials.

"(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to 25 percent of the cost of the study required by subparagraph (A). Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated, for the Building and Fire Research Center at the National Institute of Standards and Technology, not to exceed $750,000. The study shall not commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after the date of enactment of this section.

"(h) RELATION TO OTHER REQUIREMENTS.—In the implementation of this section, the process for meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefore.".

(b) EFFECTIVE DATE.—Subsection (b) of section 31 of the Federal Fire Prevention and Control Act of 1974, as added subsection (a) of this section, shall take effect 2 years after the date of enactment of this Act.

TITLE II—NATIONAL FALLEN FIREFIGHTERS FOUNDATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Fallen Firefighters Foundation Act".

SEC. 202. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Fallen Firefighters Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is a charitable and no profit corporation to be organized under the laws of the State of Maryland and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) primarily to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with it;

(2) to provide financial assistance to families of fallen firefighters for transportation to and lodging at non-Federal facilities during the annual memorial service;

(3) to assist State and local efforts to recognize firefighters who die in the line of duty; and

(4) to provide scholarships and other financial assistance for educational purposes and job training for the spouses and children of fallen firefighters.

SEC. 203. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) VOTING MEMBERS.—The Foundation shall have a governing Board of Directors (hereafter in this title referred to as the "Board"), which shall consist of nine voting members, of whom—

(A) one member shall be an active volunteer firefighter;

(B) one member shall be an active career firefighter;

(C) one member shall be a Federal firefighter; and

(D) six members shall have a demonstrated interest in the fire service.

(2) NONVOTING MEMBER.—The Administrator of the United States Fire Administration of the Federal Emergency Management Agency (hereafter in this title referred to as the "Administrator") shall be an ex officio nonvoting member of the Board.

(3) STATUS OF BOARD MEMBERS.—Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(4) COMPENSATION.—Members of the Board shall serve without compensation.

(b) APPOINTMENT AND TERMS.—Within 3 months after the date of enactment of this Act, the Administrator shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years, except that the Administrator, in making the initial appointments to the Board, shall appoint—

(1) three members to a term of 2 years;

(2) three members to a term of 4 years; and

(3) three members to a term of 6 years.

(c) VACANCY.—A vacancy on the Board shall be filled within 60 days in the manner in which the original appointment was made.

(d) CHAIRMAN.—The Chairman shall be elected by the Board from its voting members for a 2-year term.

(e) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a member of the Board misses three consecutive meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (c).

(g) GENERAL POWERS.—

(1) ACTIONS BY THE BOARD.—The Board may complete the organization of the Foundation by—

(A) appointing no more than two officers or employees;

(B) adopting a constitution and bylaws consistent with this title; and

(C) undertaking other such acts as may be necessary to carry out this title.

(2) LIMITATION.—Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services.

(h) OFFICERS AND EMPLOYEES.—±

(1) STATUS.—Officers and employees of the Foundation shall not be considered Federal employees, shall be appointed without regard to title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to chapter 51 and

subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) MAXIMUM SALARY.—No officer or employee may receive pay in excess of the annual rate of basic pay prescribed for level GS-15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 204. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Maryland; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 202, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the State of Maryland, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income therefrom;

(4) to enter into contracts and other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(5) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.

The Administrator may provide personnel, facilities, and other administrative services to the Foundation and shall require and accept reimbursements for such personnel, facilities, and services that shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services. Notwithstanding any other provision of law, Federal personnel and stationery shall not be used to solicit funding for the Foundation.

SEC. 206. VOLUNTEER STATUS.

The Administrator may accept, without regard to the Federal civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the United States Fire Administration, as volunteers in the performance of the functions authorized under this title.

SEC. 207. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Foundation shall, within 4 months after the end of each fiscal year, prepare and submit to the appropriate committees of the Congress a report of the Foundation's proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF FOR CERTAIN FOUNDATION ACTS OR FAILURES TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with the purposes set forth in section 202(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so, the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

SEC. 208. IMMUNITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

JEFFORDS AMENDMENT NO. 3321

Mr. LUGAR (for Mr. JEFFORDS) proposed an amend to amendment No. 3320 proposed by Mr. BRYAN to the bill S. 1690, supra, as follows:

At the appropriate place, insert the following new section:

SEC.— WORKERS' FAMILY PROTECTION

(a) SHORT TITLE.— This section may be cited as the "Workers' Family Protection Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) hazardous chemicals and substances that can threaten the health and safety of workers are being transported out of industries on workers' clothing and persons:

(B) these chemicals and substances have the potential to pose an additional threat to the health and welfare of workers and their families;

(C) additional information is needed concerning issues related to employee transported contaminant releases; and

(D) additional regulations may be needed to prevent future releases of this type.

(2) PURPOSE.— It is the purpose of this section to—

(A) increase understanding and awareness concerning the extent and possible health impacts of the problems and incidents described in paragraph (1);

(B) prevent or mitigate future incidents of home contamination that could adversely affect the health and safety of workers and their families.

(C) clarify regulatory authority for preventing and responding to such incidents; and

(D) assist workers in redressing and responding to such incidents when they occur.

(c) EVALUATION OF EMPLOYEE TRANSPORTED CONTAMINANT RELEASES.

(1) STUDY.—

(A) IN GENERAL.— Not later than 18 months after the date of enactment of this Act, The Director of the National Institute for Occupational Safety and Health (hereafter in this section referred to as the "Director"), in cooperation with the Secretary of Labor, the Administrator of the Environmental Protection Agency , the Administrator of the Agency for Toxic Substances and Disease Registry, and the heads of other Federal Government agencies as determined to be appropriate by the Director, shall conduct a study to evaluate the potential for, the prevalence of, and the issues related to the contamination of workers' homes with hazardous chemicals and substances, including infectious agents, transported from the workplace of such workers.

(B) MATTERS TO BE EVALUATED.—In conducting the study and evaluation under subparagraph (A), the Director shall—

(i) conduct a review of past incidents of home contamination through the utilization of literature and of records concerning past investigations and enforcement actions undertaken by—

(I) the National Institute for Occupational Safety and Health;

(II) the Secretary of Labor to enforce the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(III) States to enforce occupational safety and health standards in accordance with section 18 of such Act (29 U.S.C. 667); and

(IV) other government agencies (including the Department of Energy and the Environmental Protection Agency), as the Director may determine to be appropriate;

(ii) evaluate current statutory, regulatory, and voluntary industrial hygiene or other measures used by small, medium and large employers to prevent or remediate home contamination;

(iii) compile a summary of the existing research and case histories conducted on incidents of employee transported contaminant releases, including—

(I) the effectiveness of workplace housekeeping practices and personal protective equipment in preventing such incidents;

(II) the health effects, if any, of the resulting exposure on workers and their families;

(III) the effectiveness of normal house cleaning and laundry procedures for removing hazardous materials and agents from workers; home and personal clothing;

(IV) indoor air quality, as the research concerning such pertains to the fate of chemicals transported from a workplace into the home environment; and

(V) methods for differentiating exposure health effects and relative risks associated with specific agents from other sources of exposure inside and outside the home;

(iv) identify the role of Federal and State agencies in responding to incidents of home contamination;

(v) prepare and submit to the Task Force established under paragraph (2) and to the appropriate committees of Congress, a report concerning the results of the matters studied or evaluated under clauses (i) through (iv); and

(iv) study home contamination incidents and issues and worker and family protection policies and practices related to the special circumstances of firefighters and prepare and submit to the appropriate committees of Congress a report concerning the findings with respect to such study.

(2) DEVELOPMENT OF INVESTIGATIVE STRATEGY.—

(A) TASK FORCE.—Not later than 12 months after the date of enactment of this Act the Director shall establish a working group, to be known as the "Workers' Family Protection Task Force". The Task Force shall—

(i) be composed of not more than 15 individuals to be appointed by the Director from among individuals who are representative of workers, industry, scientists, industrial hygienists, the National Research Council, and government agencies, except that not more than one such individual shall be from each appropriate government agency and the

number of individuals appointed to represent industry and workers shall be equal in number;

(ii) review the report submitted under paragraph (1)(B)(v);

(iii) determine, with respect to such report, the additional data needs, if any, and the need for additional evaluation of the scientific issues related to and the feasibility of developing such additional data; and

(iv) if additional data are determined by the Task Force to be needed, develop a recommended investigative strategy for use in obtaining such information.

(B) INVESTIGATIVE STRATEGY.—

(i) CONTENT.—The investigative strategy developed under subparagraph (A)(iv) shall identify data gaps that can and cannot be filled, assumptions and uncertainties associated with various components of such strategy, a timetable for the implementation of such strategy, and methodologies used to gather any required data.

(ii) PEER REVIEW.—The Director shall publish the proposed investigative strategy under subparagraph (A)(iv) for public comment and utilize other methods, including technical conferences or seminars, for the purpose of obtaining comments concerning the proposed strategy.

(iii) FINAL STRATEGY.—After the peer review and public comment is conducted under clause (ii), the Director, in consultation with the heads of other government agencies, shall propose a final strategy for investigating issues related to home contamination that shall be implemented by the National Institute for Occupational Safety and Health and other Federal agencies for the period of time necessary to enable such agencies to obtain the information identified under subparagraph (A)(iii).

(C) CONSTRUCTION.—Nothing in this section shall be construed as precluding any government agency from investigating issues related to home contamination using existing procedures until such time as a final strategy is developed or from taking actions in addition to those proposed in the strategy after its completion.

(3) IMPLEMENTATION OF INVESTIGATIVE STRATEGY.—Upon completion of the investigative strategy under subparagraph (B)(iii), each Federal agency or department shall fulfill the role assigned to it by the strategy.

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than 4 years after that date of enactment of this Act, and periodically thereafter, the Secretary of Labor, based on the information developed under subsection (c) and on other information available to the Secretary, shall—

(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and will be sufficient, or if additional regulations or standards are needed to protect workers and their families from employee transported releases of hazardous materials; and

(B) prepare and submit to the appropriate committees of Congress a report concerning the results of such determination.

(2) ADDITIONAL REGULATIONS OR STANDARDS.—If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate such regulations or standards as determined to be appropriate not later than 3 years after such determination.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from sums otherwise authorized to be appropriated, for each fiscal year such sums as may be necessary to carry out this section.

PARTNERSHIP FOR WILDLIFE ACT

MITCHELL (AND CHAFEE) AMENDMENT NO. 3322

Mr. SIMON (for Mr. MITCHELL for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1491 to establish a partnership among the United States Fish and Wildlife Service, the States, and private organizations and individuals to conserve the entire diverse array of fish and wildlife species in the United States and to provide opportunities for the public to enjoy these fish and wildlife species through nonconsumptive activities, as follows:

On page 9, line 22, subsection (d) is amended to read as follows:

"(d) LIMITATIONS ON FEDERAL PAYMENT.—The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

"(1) may not exceed $250,000.00;

"(2) may not exceed one third of the total project cost for that fiscal year;

"(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project;

"(4) may not be used to defray the administrative cost of state programs; and

"(5) may not exceed the State share of the cost of implementing such a project.".

On page 10, lines 17 and 18, strike "if such an agency diverts revenue from activities it regulates" and insert "if revenue derived from activities regulated by such an agency is diverted".

On page 11, line 12, immediately before the semi-colon insert", of which not more than 4 per centum shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this Act and evaluating wildlife conservation and appreciation projects".

On page 11, line 20, paragraph (4) is amended to read as follows:

"(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation and appreciation project under subsection (a) of this section, at least 50 per centum shall have been donated to the Fund by the National Fish and Wildlife Foundation.".

On page 12, line 4, strike the word "wholly".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SIMON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, September 29, 1992, at 10:30 a.m., for a hearing on public investment and economic growth.

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

SUBCOMMITTEE ON PATENTS, COPYRIGHTS AND TRADEMARKS

Mr. SIMON. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, September 29, 1992, at 10 a.m., to hold a hearing on international piracy of intellectual property.

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

COMMITTEE ON JUDICIARY

Mr. SIMON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 29, 1992, at 10:30 a.m., to hold a hearing on S. 2922, a bill to assist the State in the enactment of legislation to address the criminal act of stalking other persons.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SIMON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation be allowed to meet during the session of the Senate on Tuesday, September 29, 1992, at 9:30 a.m., in SR-332 on the implementation of the Alternative Agriculture Research and Commercialization [AARC] Act of 1990.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SIMON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, September 29, 1992, at 9:15 a.m., for a hearing on regulation of human tissue transplantation.

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

ADDITIONAL STATEMENTS

A TRIBUTE TO HARTFORD ELEMENTARY SCHOOL AND MOTOROLA

• Mr. DECONCINI. Mr. President, it gives me great pleasure to congratulate Hartford Elementary School and Motorola on their joint effort which will benefit both students and business. It is heartening to know that even during tough economic times business would join hands with the educational community to improve the skills of the students at Hartford Elementary School by designing and building a math/science lab.

Hartford, the oldest active elementary school in Chandler, AZ, serves a community that is 46-percent minority and 51-percent low income. The need here is great, the funds limited, but determination boundless. The teachers and staff decided it was time to make

a change. Hartford felt they could best improve the quality of education for their students by building a math/science lab, and sent their proposal to Motorola, a longtime friend of education.

Motorola agreed to fund the math/science lab at Hartford Elementary School. They designed and engineered the lab, coordinated the procurement of equipment, labor and supplies and added an outdoor lab so that teachers could hold an entire class outside. This partnership goes beyond the thousands of dollars spent on equipment, supplies, and the building of the lab. The Motorola staff, on a voluntary basis, will actually come to Hartford to teach classes to both students and teachers in the areas of math, science, and computers.

In addition, Chandler Unified School District will be instructing the Motorola volunteers in the areas of active participation and questioning strategies. This instruction will be useful beyond their roles as volunteer teachers by making them more effective communicators. The exchange between the teachers and staff at Hartford with the employees at Motorola provides positive role models for the students attending Hartford, as well as setting an example for other communities.

This partnership represents a bright spot in our public school system during a time when, as a nation, we are struggling to compete academically. The United States is no longer the giant it once was in the math and sciences. Our children need to be prepared for a world of technology. Hartford Elementary and Motorola have taken a step in the right direction.

This is a unique and creative endeavor, one about which Motorola, Hartford, and the city of Chandler should be proud. I know my colleagues join me in congratulating Hartford Elementary and Motorola and wish the best of luck to all the students who will enjoy the use of their new lab.

Mr. President, I ask that the following list of names of those who deserve special appreciation for their hard work on this joint effort be inserted at this point in the RECORD.

The list of names follows:

Dr. Howard Conley, Dr. Camille Castell, Dr. Pat Cuendet, Ms. Mary Johnson, Ms. Heidi Hansen, Ms. Pam Johnson, Ms. Marvin Johnson, Ms. Georginna Eschenweck, Ms. Krista Scarlett, Ms. Barbara Groff, Mr. Gary Johnson, Mr. Jim Echols, Mr. L.J. Reed, Mr. Don Walker, Mr. Tim Niesz, Mr. Greg Vargo, Mr. Mike Doyle, Mr. Rich Hogen, Mr. George Scott, Ms. Carolyn Cafiero, Ms. Laurie Doyle, Ms. Sherri Christensen, Ms. Barb Gudis, Ms. Marlene Gross, Ms. Cecelia Kearney, Mr. Ray Lopez, Ms. Donna Brooks, Ms. Patti Bruno, Ms. Barbara Knox, Ms. Cliff Frey, Ms. Donna Wallace and the entire staff of Hartford Elementary School.•

UNICO NATIONAL DISTRICT 11'S ANNUAL COLUMBUS DAY DINNER

• Mr. LAUTENBERG. Mr. President, I rise today in honor of Columbus Day on the occasion of Unico District 11th's Ninth Annual Columbus Day Dinner.

Five hundred years ago, a man with great vision and an extraordinary thirst for adventure set out on a voyage to find a new route to the Far East. It was a daring voyage of discovery that looked to a new future. In honoring Christopher Columbus as the first Italian in America, I would also like to take this opportunity to pay tribute to the bravery and fortitude of the many Italian-Americans who followed him to these shores.

Like Columbus, many Italians came to America facing extraordinary odds. They came without knowing what lay ahead of them in their new country. Christopher Columbus and Italian immigrants embodied the true American spirit of determination and enthusiasm. The promise of a new and better life for themselves and their children encouraged them to take a risk and look to a new life in a new world. Italians who came to America did so knowing that in order to succeed, they would have to overcome language and cultural barriers. However, the immigrants possessed great energy and passion that enabled them to hurdle each obstacle in their way.

It is impossible to name the tremendous contributions Italian-Americans have made to the United States. They have helped to shape our Nation as we know it by becoming active in every part of our society. They can take pride in the way their rich Italian heritage has added to the mosaic of American culture. It is fitting that in honoring Christopher Columbus and his discoveries that we also acknowledge the rich contributions of other Italians who followed him to America.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by the that foreign government or organization.

The select committee received a request for a determination under rule 35 for Laurie Schultz Heim, a member of the staff of Senator JEFFORDS, to participate in a program in Russia, sponsored by the Legislative Studies Institute [LSI] and the Russian Government, for 2 months beginning on October 24, 1992.

The committee has determined that participation by Ms. Heim in this program, at the expense of LSI and the Russian Government, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Paul W. Barnett, a member of the staff of Senator JOHNSTON, to participate in a program in Russia, sponsored by the Legislative Studies Institute and the Russian Government, for 2 months beginning on October 24, 1992.

The committee has determined that participation by Mr. Barnett in this program, at the expense of LSI and the Russian Government, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Jim Jatras, a member of the staff of Senator NICKLES, to participate in a program in Russia, sponsored by the Legislative Studies Institute and the Russian Government, for 2 months beginning on October 24, 1992.

The committee has determined that participation by Mr. Jatras in this program, at the expense of LSI and the Russian Government, is in the interest of the Senate and the United States.•

STATEMENT ON S. 3278

• Mr. BURNS. Mr. President, I want to express my support for legislation introduced last Saturday by the senior Senator from Montana [Mr. BAUCUS] to which I am being added as a cosponsor. I also want to take this opportunity to commend him for his diligence in working on this matter, and hope that we can come to some resolution on it before the end of the session.

The legislation, S. 3278, will exempt certain locomotive and freight car repair and rebuilding companies from the railroad retirement and unemployment taxes. It is crafted very narrowly to help those rebuild companies who are competing with companies that currently do not pay into the railroad retirement system while still protecting the integrity of the system. I know neither Senator BAUCUS or myself would want to put the railroad retirement fund at risk, and I am confident that this proposal doesn't do that.

However, it does address a very important jobs issue in Montana. The U.S. Seventh Circuit Court of Appeals recently ruled that the Livingston Rebuild Center [LRC], a locomotive repair facility, in Livingston, MT, must pay into the railroad retirement fund even though many of its competitors do not. If this decision stands, LRC could owe as much as $2.5 million in back taxes and $50,000 a month from now on. This tax burden would cripple their ability to compete and put LRC out of business. The closure of LRC would deal a serious economic blow to Montana's economy. LRC directly employs 140 people in Park County and generates an additional 257 nonbasic jobs throughout the State. If LRC

closes, the unemployment rate in Park County would nearly double from 7.1 percent to 13.3 percent. This travesty must be averted.

The court in deciding against LRC's challenge to the Railroad Retirement Board decision that they must pay into the railroad retirement system made the following comment:

> The Railroad Retirement Act is a creaky statute, presuming that "railroads" are distinct entities; today many railroads are parts of conglomerates, and an attempt to isolate "the railroad" in the larger enterprise is bound to cover at once too much and too little. But reconciling the statute with current forms of corporate organization—and with the fact that railroads compete vigorously against other modes of transportation that are not subject to special regulation and taxation—is a job for the political branches.

This legislation addresses, in part, the court's comments. It recognizes that companies can be under common majority ownership and still remain separate and distinct. LRC is a public company with its own board of directors just like any other company. However, a majority of its stock is held by an individual who also owns a railroad company. LRC is not, and never has been, a division of that railroad company. It competes against other rebuild and repair shops that are not, and never have been, divisions of railroad companies and that do not pay the railroad retirement and unemployment taxes. S. 3278 recognizes that reality.

Mr. President, if this legislation passes, it will save jobs in Montana. It will put LRC on a level playing field with its competitors. I hope my colleagues will work with us to get this legislation passed and save Montana jobs.•

THE ANGOLAN ELECTIONS: ANOTHER STEP TOWARD DEMOCRACY

• Mr. DECONCINI. Mr. President, today the people of Angola take another step along their path toward democratization, personal freedom, and peace. At long last, Angolans will be going to the polls to choose for themselves—for their first time since achieving independence from Portugal in 1975—to either retain the current government of the MPLA under José Eduardo dos Santos, or commit themselves to the leadership of UNITA, led by Dr. Jonas Savimbi. In light of this momentous event, I rise to take note of its historic significance, to voice my strong support for these elections, and to encourage the people of Angola to exercise their opportunity for a real revolution through the use of the ballot, not the end of a bayonet. By making true, multiparty elections an ingrained part of their political system, the Angolan people will not only improve their lives, they will also create a system that will benefit their children and, hopefully, the rest of southern Africa, as well.

As cochairman of the Helsinki Commission my commitment to the elimination of human rights abuses and the promotion of civil liberties by governments throughout the world is well known. My colleagues are also well aware of the great interest I have taken in the affairs and the struggle of the Angolan people. In watching this country's development over the years, I have urged and supported legislation and policies that would promote democracy in Angola. I have not always seen eye-to-eye on the methods used to bring Angola to this moment, but I remain hopeful that the people who go to the polls today and tomorrow will demonstrate to those they elect that they are serious about moving Angola toward peace and true national reconciliation.

When Angola achieved its independence in 1975, the promise of elections was quickly overrun by a power struggle in which the former influence of the Portuguese was transplanted by the Soviets and Cubans who moved in to support the MPLA. Soon thereafter they were joined in a counterstruggle when South Africa, and later the United States, intervened to support UNITA. Thus was a potentially rich nation devastated and, in many ways, stopped in time. This said civil war, in which innocent men, women, and children were the primary victims, has taken a severe toll over the years. Some have argued that the United States should have stayed out of the war, but I am convinced that would have prevented the Angolan people from ever experiencing the opportunity to achieve elections and democracy. Throughout my involvement with this issue, I have advocated three specific policies designed to bring peace to Angola.

First, I urged an end to civil war, which was simply a perpetuation of the violence and suppression that was supposed to have ended when independence was gained from Portugal. The cease-fire agreement between the MPLA and UNITA, signed on May 31, 1991, after active and sustained diplomacy on the part of the Portuguese, Soviet, and United States Governments, achieved this first goal. Although there continue to be reports of minor skirmishes, no major violations of the accords have been reported, a sign that both sides are serious in bringing about an end to the senseless violence that has only stalled the move toward true independence.

The second goal for Angola was, and remains, to see the institution of a multiparty, democratic system, marked by regular free and fair elections and promotion of personal rights and freedoms. Today, as the world watches, the people of Angola take their long-awaited first step toward democracy. It is encouraging that this day has finally arrived, and I am hopeful that these elections will provide the impetus for further dramatic reform. Only time will tell whether this process becomes institutionalized, as we all hope.

As the second objective for Angola appears close to fulfillment, we must ensure that the third and final step—national reconciliation among all Angolans—is achieved. In order to ensure that current progress is not nullified due to continued friction between the historically warring parties, there must be true national reconciliation, coupled with full participation and support from all sides. Only through completion of this third step will the people of Angola have achieved true independence.

Unlike the first two steps, primary responsibility for completing this process now rests on the Angolan people and those they elect to lead them. In a second statement later this week, I plan to address this final, critical issue.

Mr. President, the hostilities between UNITA and the MPLA must be ended and replaced by cooperative efforts. It is only through unity and a focus on a common goal that Angola will move forward. The United States and other countries are no longer in a position to support movements which seek change of governments through military means. The international community is as tired of these adventures as the people of Angola themselves. If Angola is to obtain development, trade, and investment assistance from the rest of the world, it must take the initiative through these elections to demonstrate to the world that it is serious about putting the past behind it. Only then will the world be ready to eagerly allow itself to focus on assisting Angola into a new independence.•

HAROLD JINKS, PIGGOTT, AR, RECIPIENT OF AWARD

• Mr. PRYOR. Mr. President, this morning, Harold Jinks of Piggott, AR, was selected as one of the initial recipients of the Lawrence O'Brien Democratic Party Achievement Awards.

These awards were established in Larry's memory to honor men and women who have made a particularly notable contribution to the health and vitality of the Democratic Party.

The judges for this award, Mr. President, could not have chosen better than recognizing the contributions that Harold Jinks has made to our political system.

Harold Jinks is an American original. He has dedicated his life enthusiastically to the cause of freedom and democracy in the United States as exemplified in the principles of the National Democratic Party.

Harold's commitment to the party and his tenacity in putting democratic principles into practice, as well as his ability to convince others to do the same, make Harold a natural choice for this award.

At a time in life when he should be enjoying a well-deserved retirement, Harold has taken on the formidable task of rallying senior Americans to our party, encouraging and guiding the formation of chapters of senior Democrats all across America.

Larry O'Brien knew Harold Jinks. Harold Jinks was a friend of his. Larry O'Brien would be proud today that Harold Jinks was selected as one of the first recipients of the award established in his name.

I join in saluting Harold Jinks on this great day.●

HURLOCK, MD

● Mr. SARBANES. Mr. President, this weekend the town of Hurlock, MD, will be celebrating its centennial. Hurlock ranks as the second largest town in Dorchester County. The town of Hurlock began as a station on the Dorchester/Delaware Railroad Line built in 1867. In 1869 John Martin Hurlock, on whose land the station was erected and after whom the town was named, built a grocery store at the railroad crossing.

In 1884 the Washington Methodist Parsonage was built, and in 1887 five new homes and a hotel were constructed. In 1888 the Washington Church, presently known as the Unity-Washington United Methodist Church, was moved into the growing settlement from its original location. At the same time the post office was moved into the town from Harrison Ferry, and the mill was moved from Williamsburg. All of these events were instrumental in the rapid growth of the town, which soon became an important center of upper Dorchester life.

Hurlock's growth was greatly influenced by the construction of a second railroad, the Baltimore, Chesapeake & Atlantic in 1890. This railroad conveyed passengers from the Love Point Ferry out of Baltimore to Ocean City. Since 1890 Hurlock's population has grown from 400 to almost 7,000 people today.

One of the most influential philanthropists of Hurlock was Mr. Henry Walworth who moved to Hurlock from Baltimore at the end of the century. In 1898 the first newspaper in town was started by Mr. Walworth and called the Hurlock Advance. In 1900 Mr. Walworth established the Hurlock Free Library by using his private library collection and discarded books from the Enoch Pratt Library. In 1901 the town had its own bucket and ladder brigade, which was incorporated in 1924 as the Hurlock Volunteer Fire Co.

Centered in one of the best agricultural areas of Dorchester County, Hurlock's farming and farm-related businesses were and are the main industry. The Hurlock vicinity is said to have the greatest concentration of irrigation systems of any region. These produce such crops as soybeans, barley, corn, wheat, cucumbers for pickling, tomatoes for processing, plus fresh market produce.

I join the citizens of Hurlock and Dorchester County in honoring a town which has experienced a century of history and change and to wish the town a joyful celebration during this notable anniversary.●

DOD'S REPORT ON THE INVESTIGATION OF THE 1991 TAILHOOK CONVENTION

● Mr. GORTON. Mr. President, it is clear from last Thursday's report on the investigation of the 1991 Tailhook convention, that the Navy's self-evaluation of this deplorable incident was neither fair nor objective.

Particularly distressing was the failure—or unwillingness—of the Naval Inspector General's Office and the Naval Investigative Service to work cooperatively prior to and during the investigation. Equally inexcusable was the calculated decision not to interview officers above the grade of lieutenant commander, an unmistakable demonstration of cronyism within the Navy.

The Department of Defense's report proves, beyond any reasonable doubt, that the mistakes, prejudices, and infighting that occurred during the Tailhook investigation were inexcusable—particularly given the nature of the allegations. If this Nation has learned nothing else during the course of the last year, it is that sexual harassment charges must not be taken lightly.

As women have moved into traditionally male dominated occupations, they are highly competitive within the employment chain. Women seek and deserve to be treated as equals. The blatant sexual harassment that occurred at the 1991 Tailhook convention and the investigation thereafter constitute a slap at every woman in our Armed Forces and to every woman who has struggled to be treated with dignity and respect in the workplace.

Mr. President, the reports from the Tailhook incident are appalling. But for the victims of this incident, the fear, mistreatment and degradation did not end there. It is shameful that the women who brought forth their claims were scorned and that the investigation that followed was simply a farce. Had the DOD's inspector general led the investigation from the beginning, the entire process could have been effective, and could have demonstrated our armed services' commitment to its women members. What was demonstrated instead was an inability to make the tough decisions needed to ensure a fair and thorough investigation. The officers involved let their allegiance to the outdated culture within an institution and to their male colleagues overshadow their better judgment.

This lapse is inexcusable. It is entirely appropriate that four of the five officers involved in the Tailhook investigation will lose their positions or be forced to retire as a result. If simply human decency does not convince all members of the military to treat women employees with respect, disciplinary actions should.

I hope, Mr. President, that Tailhook and its investigation will be used in the future as the impetus for every military branch to help root out sexual harassment, and that this will be the final chapter in a book that dishonors what has been otherwise a fine institution that has served its country well.●

SERIOUS FLAWS FOUND IN WINGS OF DOUGLAS C-17

● Mr. D'AMATO. Mr. President, there is a quiet celebration going on in the B-1B Program office. Why? Because after years of being pilloried as the "mother of all lemons," the B-1B's reputation as a flying Edsel is about to be eclipsed by the C-17. The press will not need the B-1B to kick around anymore, because working on the C-17 has become the equivalent of a Ph.D. program for quality control inspectors, auditors, trouble shooters, and, thus, reporters.

I ask that an article that appeared in the Los Angeles Times on September 24, 1992, entitled "Serious Flaws Found in Wings of Douglas C-17" be printed in the RECORD.

We can only hope that the Senate conferees on the Defense authorization and appropriations bills are able to impress upon their House colleagues the importance of reining in the C-17 before it becomes the Air Force equivalent of the A-12.

The article follows:

[From the Los Angeles Times, Sept. 24, 1992]

SERIOUS FLAWS FOUND IN WINGS OF DOUGLAS C-17

(By Ralph Vartabedian)

A Pentagon investigation has found serious defects in the wings of the McDonnell Douglas C-17 cargo jet, which could result in premature cracks—potentially the most severe problem yet in the long-troubled program.

The flaws, which were revealed in a report obtained Wednesday by The Times, have prompted questions about the safety of the aircraft. Remedying the problem also would significantly boost the program's cost and further delay its production.

The investigation by the Pentagon's inspector general means more bad news for the company's Douglas Aircraft unit in Long Beach, which has been struggling with defense industry cutbacks and production problems on its commercial programs. Thousands

of workers have lost their jobs in recent years.

The Air Force plans to buy 120 C-17s for an estimated $40 billion, making it one of the firm's largest programs in Long Beach. The program is already about $1 billion over budget, a cost borne so far by McDonnell, and development of the C-17 is more than a year behind schedule.

A McDonnell spokesman said the company "could not comment on a report that we haven't seen." McDonnell officials have previously said that some wing rivets did not meet specifications but that the problem has been corrected and the existing wings are more than adequate.

Potential safety risks from the wing flaws and the cost to remedy the defects are not known, but the government is "not protected" financially and needs to urgently conduct testing to determine the extent of the problem, according to a memorandum to Air Force officials included with the inspector general's report.

The investigation found that the quality standards for the C-17 did not comply with government requirements and that manufacturing procedures were "not followed and in some instances confusing or nonexistent." It also found that quality control data was "missing or incomplete."

Thousands of rivets that hold each wing together were improperly installed by Douglas with automated machines, the report found. After they were inserted into the wings, the rivets expanded twice as much as the company's specifications called for, the report said.

Rep. John Conyers (D-Mich.), who requested the Pentagon probe, said the findings raise "serious doubts about the safety of the aircraft" and asked Defense Secretary Dick Cheney to ground the four existing cargo jets undergoing test flights at Edwards Air Force Base.

But Air Force officials said McDonnell's riveting procedures do not pose any flight safety or durability problems, though the officials had not examined the inspector general's findings as of Wednesday.

In addition to the rivet problem, the inspector general report found that McDonnell had improperly installed two-piece fasteners or nuts and bolts in the wings, which were responsible for fuel leaks that forced the aircraft to be grounded three times in the last year.

The report found that the government is not protected either financially by the C-17 contract warranty or technically by durability tests on a special aircraft.

Despite the fuel leaks, McDonnell has asserted in recent weeks that the flight program is going well and is meeting many of the objectives set by the Air Force. So far four of the jets have flown about 500 hours at Edwards Air Force Base.

"We believe remarkable progress has been made in the C-17 program during the past 12 months, both in production and flight testing," David O. Swain, McDonnell senior vice president, said in a recent company news release.

But Conyers asserted in his letter to Cheney that the C-17 program amounts to a "procurement disaster" and asked Cheney to take urgent action to protect flight crews. A Conyers aide said that it appears that 26% of the wing rivets were overexpanded—meaning that the rivets fit too tightly inside the holes drilled in the wing. Each wing contains more than 100,000 rivets, according to a McDonnell source.

The allegations that McDonnell had improperly installed rivets surfaced in March, 1991, when The Times reported that the Federal Bureau of Investigation was looking into whether the rivets had been improperly installed and the problem covered up by McDonnell officials.

That investigation was later dropped by the Department of Justice, but congressional investigations of the problem continued and last year Conyers asked the inspector general to conduct a thorough investigation.

"It sounds like the same old news we heard some time ago," Col. Larry Greer. An Air Force spokesman, said about the inspector general's report.

The inspector general did not examine any rivets on the aircraft before concluding that they had been overexpanded. Instead, the conclusion was reached after reviewing quality control records that showed the automated riveting machines had used improper tolerances on sample runs, known as test coupons.

The coupons were originally reported lost or destroyed by McDonnell in the FBI's investigation, Conyers said. He termed the misplacement a possible cover-up of the problem and on Wednesday asked Atty. Gen. William P. Barr to reopen his investigation.●

PRESTON, MD

● Mr. SARBANES. Mr. President, I would like to bring to the Senate's attention the 100th anniversary of the incorporation of Preston, MD, and the 65th anniversary of the founding of the Preston Volunteer Fire Co.

Preston, which was formerly called Snow Hill, is a rural Eastern shore town that was established around the present M.E. Church built on farmland deeded by Philemon Willis. Soon after the church was erected, William Gootee set up a general store with a post office. People from nearby farms made weekly excursions to Snow Hill to do their shopping and pick up mail.

As the town grew and more demands were placed on the post office, frequent delays in the mail service became commonplace because there was another, much larger, Snow Hill in Maryland already. in 1856, Snow Hill changed its name to Preston. The name Preston was most likely selected to memorialize Alexander Preston, a prominent Baltimore lawyer at the time who had business in the town.

Before 1890 and the advent of the railroad in Preston, the town grew at a slow pace due to a lack of transportation facilities. The Choptank River was the principal mode of transportation before that time. However, the introduction of the railroad in Preston greatly influenced the town's growth.

With the addition of electric lights in 1908, and the completion of the State road in 1916, Preston was positioned on the main artery of traffic up and down the peninsula. The town's location and strong community provide an excellent environment for businesses. Today, two of the community's outstanding enterprises include the Preston Trucking Co. and A.W. Sisk & Sons, Inc., a canned foods brokerage.

Preston retains the smalltown charm that attracted residents over a century ago. It remains a farm community that welcomes people and is famed for its hospitality and congenial atmosphere. I want to thank Ms. Dora Mitchell, a local historian, for sharing her knowledge of Preston's history with me.

I join the citizens of Preston and Caroline County in honoring a town which has experienced a century of history and change and to wish the town a joyful celebration during this notable anniversary.●

ECONOMIC PROGRAMMING FOR RUSSIAN TELEVISION

● Mr. BRADLEY. Mr. President, I commend to my colleagues an article by Dr. Arthur Obermeyer appearing yesterday in the Christian Science Monitor. Dr. Obermeyer has been involved in helping the people of the former Soviet Union manage the difficult transition from communism to market capitalism. His approach, using the power of television to teach the people of the former Soviet Union about the basic workings of a market economy and to correct misunderstandings about how our system works, represents the kind of innovative program we should be thinking about.

As I argued when I introduced the Freedom Exchange Act, what the people of the former Soviet Union need, more than our dollars, is our ideas. High expectations have been raised by the fall of communism and by the images of the West that now pour into the region. What is missing, however, is an understanding of what it will really take to make the transition from communism to a free market society. Programs like that described by Mr. Obermeyer and the Freedom Exchange Act can make a real contribution to filling that gap. They represent the kind of modest investment that will yield us significant dividends in the years to come.

I commend Dr. Obermeyer on his good work and ask that his article be inserted into the RECORD at this point.

The article follows:

[From the Christian Science Monitor, Sept. 28, 1992]

RUSSIAN TV: AN UNEXPLOITED OPPORTUNITY

(By Arthur S. Obermayer)

Soviet citizens lived in isolation from the rest of the world for over 70 years. Now these 280 million people must bridge the gap and learn how to function in a free-market economy. Educating so many people to cope with such drastic political and economic changes is a monumental task. But the global cost of failure would be enormous.

From early childhood, Westerners experience free-market concepts through watching TV advertising, playing games like Monopoly, and selling lemonade and Girl Scout cookies to neighbors. Even the brightest and best-educated Russians have not had this kind of exposure and do not automatically grasp concepts that are obvious to us. This lack of understanding causes them to be apprehensive about the disruptive effect of re-

forms on their lives. They fear unemployment, hopelessness, and higher prices and have little appreciation of how the bitter medicine of today can lead to a healthier society tomorrow.

The challenge to the world has been to find the most effective and rapid methods of helping these people. The top-down approach to economic reform breeds resistance, frustration, and disillusionment. It runs the risk of ultimate failure. Russian leaders need to use all their resources to convince the public that the direction they are taking is sound. Approaches that will change attitudes developed under 70 years of communism are at least as vital as instruction. Today, many American organizations are sponsoring seminars, courses, exchange programs, and internships. These activities are important but reach at most a few hundred thousand people. How do we reach the other 280 million?

The Soviet government spent billions of rubles to construct two sophisticated national satellite television networks that reach even the remotest parts of the country—a country with 11 time zones covering one-sixth of the earth's land mass. Over 90 percent of homes have television sets, four times as many as have telephones. Leaders knew its propaganda power. Television is the principal source of information and entertainment for the majority of Russians who have met few foreigners and understand no Western language.

Television networks can be used to help them understand the dynamics of a free-market economy. But to get programs on the air requires solid business connections. Personal relationships are critical because Russians mistrust their government and ours. They are suspicious of anyone they do not know and quickly recognize propaganda for what it is. Still, entrepreneurial organizations that can deal directly with television professionals there can overcome these problems.

For the past two years, my organization has been helping many Soviet, now Russian, television producers put together low-cost broadcasts on market economics. One approach has been to provide American videotapes on relevant subjects. Some tapes are instructional, but more often they deal with Russian misperceptions about our economic way of life. Most Russians think you can become wealthy only if you deal on the black market, exploit workers, or do something else dishonest. We have countered by providing US videotapes on the struggle of entrepreneurs to succeed in our society, showing how success can lead to better jobs for workers and an economically healthier community.

Another one of our national television series uses Russian television crews to follow the lives of their fellow countrymen who are temporarily in the United States for on-the-job training or as interns. The programs focus on their experiences and perceptions and emphasize the obligations and responsibilities of employers and employees to each other. They also demonstrate what it is like to shop in an American store and live in an American home. Each episode covers individuals that the average Russian can relate to, such as farmers, craftsmen, shopkeepers, and managers.

Last year we also helped convert a well-established, popular prime-time television series from its original science theme to market economics. The series was based on US interviews by the internationally known Russian host, Sergei Kapitsa, with famous Americans including economists Paul Samuelson, John Kenneth Galbraith, Milton Friedman, and Larry Summers.

Although these programs provide only a small portion of what is needed, they have received the enthusiastic support of Russian reform leaders, television professionals, budding business executives, and ordinary people. Russian television organizations have borne most of the ruble cost of producing programs and have made free air time available. Still, much of the technical and programmatic resources must come from the West and be paid for with hard currency.

Thus far, my limited resources have been the primary source of financial support for our efforts. The US government does not consider this a priority and has not provided any private-sector funding specifically for television. Furthermore, the Russian economy has not yet developed to the point where commercial sponsorship is viable. To compound the problem, even major private foundations have defined their roles in such a way as to lose sight of this important goal.

The Western world has a unique opportunity to influence these people, but it must act soon, before the opportunity dissappears.●

REGARDING AX

● Mr. D'AMATO. Mr. President, the latest issue of Proceedings includes an article by Capt. R.M. Nutwell entitled "AX * * * or VFAX." Considering Acting Navy Secretary O'Keefe's recent remark that deep-strike interdiction "is not a tertiary kind of mission," I believe that Captain Nutwell's argument for a naval variant of the F-22 is both timely and proper.

I commend this essay to my colleagues, and ask that the full text of the article be printed in the RECORD.

The article follows:

AX * * * OR VFAX?

(By Capt. R.M. Nutwell, USN)

The Navy has decided it needs an "AX" medium-attack aircraft to succeed the ill-fated A-12. Since the AX will probably be the only all-new tactical aircraft development program the Navy can afford in the next 10 to 15 years, it represents the future of naval aviation. But a "son of A-12" medium-attack aircraft optimized for the long-range strike mission is not the plane we should develop.

Why? Because we need a new fighter even more urgently than we need a new strike aircraft. Since we can buy only one all-new aircraft, it clearly must be multi-mission. Because airframe-engine performance requirements and modern weapon-sensor capabilities make it much easier to adapt a fighter design to the strike mission than vice versa, it must be a multi-mission fighter, one that also can perform the strike mission.

The first requirement for a successful air campaign, including long-range strike missions, is air superiority. While strike aircraft can contribute to air superiority by attacking surface-to-air defenses and airfields, the key player in the air-superiority campaign is a fighter force capable of sweeping the enemy fighters from the air, as U.S. fighters have always done—most recently in Operation Desert Storm. It is imperative that Navy air wings have a front-line fighter capable of pacing the threat in the 21st century.

By 2010 the tactical fighter threat will include large numbers of fourth-generation fighters and perhaps a significant number of even more capable aircraft—versions of the French Rafale or the European Fighter Aircraft. We can expect to face fighters incorporating stealth technology, enhanced maneuverability, and higher cruise speeds.

If we build a medium-attack AX, what airplane will Navy fighter squadrons be flying against these threats? Answer—the F/A-18E/F, an airplane that will clearly not give us the capability advantage we have always enjoyed. While the Hornet is an excellent strike fighter and a good match for current fourth-generation air threats, it will be too slow and insufficiently stealthy, and may lack adequate range to serve as the Navy's front-line fighter in the 21st century.

The future of fighter aviation lies with the technology incorporated in the Air Force's F-22 advanced tactical fighter (ATF). By combining stealth technology, "supercruise" (supersonic cruise at about Mach 1.4 without afterburner), and outstanding maneuverability, this airplane will revolutionize air-to-air warfare. If the Navy is to stay ahead of the fighter threat, it must have an aircraft with ATF capabilities. Not only would an ATF variant (call it VFAX) counter the future fighter threat, it would also provide the range and mobility required for fleet air defense against future bomber-antiship missile threats.

But what of the long-range strike mission? First, we must recognize that cruise missiles will claim an increasingly larger share of this mission as their capabilities improve. While manned aircraft will continue to be needed for some targets deep in the enemy interior, this mission is no longer of sufficient importance to justify building a dedicated aircraft, especially when it will be the only new airplane we can afford.

Second, a VFAX derived from the ATF concept would be capable of performing the residual strike and other air-to-ground missions that will continue to require the inherent flexibility of manned aircraft: interdiction, close air support, and suppression of enemy defenses. While I am not aware of any cases in which an attack aircraft design was successfully converted to a fighter, there are numerous examples of fighter designs serving successfully in an attack role, e.g., the F-15E, the F/A-18, the F-16, and the F-4. This is true because fighter capability is still driven by airframe performance, while strike capability is driven largely by weapon system performance, and survivability in the strike mission is actually enhanced by fighter-type airframe performance.

To the argument that an ATF-based VFAX would have insufficient payload, I would answer that weapon delivery accuracy has reduced the requirement to carry several tons of ordnance; four- to six-thousand pounds of payload should be sufficient now. While it is true that more is almost always better, a large air-to-ground payload is no longer of sufficient importance to drive the design of our only next-generation tactical aircraft. We should be willing to give up some payload to get a true multi-mission aircraft that will keep pace with the fighter threat.

As to the argument that a multi-mission airplane would be too expensive, it would be much cheaper than two separate development programs, especially when numbers of aircraft to be bought are considered. Furthermore, the shrinking of deployed air wings and the unpredictability of future missions dictate that we must give the battle group commander deck full of multi-mission aircraft.

If we share the long-range strike mission with Tomahawk and decline to develop a dedicated follow-on strike airplane, will we

weaken the rationale for aircraft carriers? Not in the eyes of those who truly understand the modern role of carrier battle groups in sea control and power projection ashore. Long-range strike is but one element of power projection, and success in both missions starts with control of the air. Maritime interdiction operations, protection of friendly shipping, and support of noncombatant evacuations or ground forces ashore are all likely carrier battle group tasks that do not necessarily involve deep land strikes.

The Navy should abandon the long-sacred tenet that long-range strike is the raison d'etre for aircraft carriers. Clinging to such reasoning will ultimately sink the carrier because it fails to recognize that cruise missile-technology offers a much cheaper, lower-risk, effective way to conduct many long-range strike missions, and does not recognize the other critical missions that carrier battle groups perform.

The Navy should scrap the AX concept in favor of a VFAX—naval strike-fighter variant of the ATF. To build a single-mission medium attack aircraft would squander naval aviation's declining resources on a shrinking mission, and consign Navy tactical air wings to second-class status for a generation.•

THE RISE OF RACIAL HATE CRIMES IN GERMANY: ANTI-SEMITISM WITHOUT JEWS

• Mr. SIMON. Mr. President, during this session of the 102d Congress, I have been inserting statements in the CONGRESSIONAL RECORD regarding anti-Semitism. The hatred this prejudice breeds is still widespread. Earlier this year, I inserted a statement in the RECORD about the rise of neo-Nazism in Germany. Today I would like to specifically focus on the recent wave of antiforeigner violence in Germany.

The Federal Republic of Germany, to its credit, has tried to educate its people about the horrors of Nazism and Nazi Germany's barbaric racial policy. Most Germans accept the responsibility of their past and realize that it must not happen again. But the violence against foreigners in Germany these past 2 months is something the people of Germany must realize is frightening to the rest of the world. While most of the victims now are not Jews, but Gypsies, Vietnamese, Turks, and so forth, people outside Germany see this as a flashback to the 1930s.

Most people from the former East Germany, where most of the anti-foreigner violence is taking place, have not been exposed to a thorough education program that West Germans have experienced since World War II. East Germans were taught in school that they, too, were victims of Nazism, and many were, but now that Germany is unified the world community finds it difficult to accept these acts of hooliganism against people who are ethnically different.

The most disturbing response to this crisis is not what some bigoted people believe, but rather the anemic response by the German Government. Germany does have a liberal asylum law that may need some minor revisions, but this is not the root of the problem. Most politicians in Germany have been unwilling to unequivocally and forcefully condemn these attacks. There is an unemployment problem in the Eastern states, but blaming foreigners for the failures of communism and the cost of reunification is clearly wrong. It is scapegoating of the most ugly kind, and it is something that Germans should realize is unacceptable to the international community.

Recent street demonstrations on August 22 in the eastern German city of Rostock is the most recent example of German hate crimes. Armed with knives, starter pistols, and gasoline bombs, a mob of "skinheads" spoke at meetings, flaming the hatred of angry youth and showed that the neo-Nazis' organized campaign of terror against asylum-seeking immigrants has been gaining strength. It started in Rostock but quickly spread to dozens of German towns and cities. Other recent events, such as the defacing of war memorials, is further evidence of a rise in neo-Nazi activities and hate crimes. These criminal acts have been aimed not just at asylum-seekers and foreign guest workers, but also foreign students and tourists.

This disturbing sequence of violence has brought with it a simplistic program of racial hatred: "Freedom for us means foreigners out! Prosperity for us means foreigners out! Germany for the Germans means foreigners out!" These words are received by loud cheers from rightwing extremists. More disturbing, the rightwing German Republican Party and the People's Union have done well in the elections at the state level. Nationalistic parties have used immigration as a way to gain support among those who worry about the economy.

Many German citizens have been deceived by those who blame immigrants and the political asylum law in the German Constitution. But the main problem is not immigration. It is racial hatred and xenophobia. This new wave against non-Germans is anti-Semitism without Jewish people. In a Germany largely without Jews, European refugees and other visible minorities have become the new scapegoats for Germany's problems. In the more permissive climate of post-cold war Germany, the anti-Semitism and racial hatred that had been just below the surface has again come to light. Just as they did during the troubled Weimar Republic, these racists pick the most vulnerable, defenseless group of people to take advantage of popular frustration during a transition period.

Years before the new wave of asylum-seekers began coming to Germany, neo-Nazis had won 7.5 percent of all votes cast, which entitled them to 11 seats in the legislature, and to sit in 11 of Berlin's 12 borough councils. There were 1,150 attacks by rightwing extremists reported by German authorities in 1991. It is a worrisome trend.

Chancellor Helmut Kohl has reacted to the violence by launching a national antiracism campaign. This has done little to soothe tensions throughout Germany, but it is a necessary first step. But more should be done. Protection for foreigners has been totally inadequate, and this ought to be remedied immediately. German officials have also been slow to investigate the organizations of the racist activities. As a result, rightwing hate crimes have been tolerated to a shocking degree. In the short term, law enforcement must be strengthened.

Germany's constitution offers asylum to all genuine political refugees. But now Chancellor Kohl has called for changes to article 16 and the German Government plans on deporting thousands of Romanians, mostly Gypsies, by November 1 of this year. These Gypsies, many of whom had relatives fall victim to Nazi racial policies, will now be forced to return to a country that does not accept Gypsies as part of their population. The renowned human rights organization, Helsinki Watch, says: "Gypsies in Romania have been the target of increasingly violent attacks since the revolution that toppled Nicolae Ceausescu." By singling out Gypsy asylum-seekers, Germany is promoting another scapegoat for its reunification problems.

By making the asylum law a central issue in German politics, the Kohl government has given rightwing extremists a legitimacy they do not deserve. Racial hatred must be met with education, forceful denunciations, and a genuine commitment to basic human rights.

The German Government ought to set the tone for a more tolerant Germany. They have a special responsibility to do no less.•

THE E-2C HAWKEYE

• Mr. D'AMATO. Mr. President, the latest issue of Proceedings includes a letter in the "Comment and Discussion" section from Comdr. Robert Chamberlain, USNR, regarding the future of carrier-based airborne early warning. I believe Commander Chamberlain's assessment of the precarious state of carrier-based airborne early warning is correct, and I agree wholeheartedly that the development of a follow-on to the E-2C needs to begin now, though I would differ with his funding source.

I commend this essay to my colleagues, and ask that the full text of the essay be printed in the RECORD.

The essay follows:

PRESS RELEASE FROM HELL

Commander Robert M. Chamberlain, U.S. Naval Reserve—Commander Pritulsky was

right on the mark about the state of airborne early warning (AEW) in the Navy. He also was entirely correct in suggesting that, unless something is done now to sustain an organic AEW capability for carrier air wings, AEW will become exclusively an Air Force mission.

The painful lessons learned—and losses suffered—by the Royal Navy in 1982, when it went to the Falklands without a seagoing AEW capability and beyond the range of land-based AEW support, should not be lost upon us. A glance at a globe should prove to anyone with any understanding of aircraft operations that continuous, long-range, land-based, AEW support all over the world is, quite frankly, impossible. A carrier-based AEW aircraft is the only surveillance platform that can support a battle group in distant locations whenever rapid reaction and sustained AEW and surveillance coverage are required.

Navy acceptance of Air Force AEW support for its carrier battle groups certainly would produce strong suggestions that the aircraft carrier is no longer required. Advocates of the B-2 bomber are already saying that it can conduct sustained, long-range conventional strikes virtually anywhere in the world. If the Air Force developed a team of B-2s, Airborne Warning and Control System (AWACS) aircraft, and aerial tankers for long-range strike missions, how could the Navy make the case for keeping aircraft carriers?

Therefore, to maintain the carrier battle group's viability as a vital U.S. military asset in future conflicts—where flexibility, quick response, and endurance on station are required—an organic AEW capability is essential.

There are three possible approaches to sustaining AEW support for the battle groups. The first is to spend more money on the existing E-2C fleet and try to keep it alive. This approach does not solve the problem; it merely postpones it for a few years—at a significant cost to the taxpayer. The second approach is to do nothing; tantamount to giving the AEW mission to the Air Force.

The third approach is to start immediately an aggressive program to develop an AEW system to replace the E-2C. The main obstacle to this solution is the Navy's intense internal debate over future attack and fighter aircraft: AX vs. F/A-18E/F vs. F-14 Quickstrike vs. ATF. All this haggling has pulled attention away from the desperate situation carrier air wings find themselves in with regard to support aircraft. The carrier-aviation community must take a total-force out-look and admit that AEW aircraft, tankers, and even carrier on-board delivery aircraft are as critical to overall mission success as strike and fighter aircraft.

Many will respond to this by saying that support-aircraft programs will have to wait until the problems with attack and fighter programs are resolved. We cannot afford to wait. The Air Force has started a radar-development program for an eventual AWACS replacement. Given that AEW system performance requirements for the Navy and the Air Force will be similar in the future, this sets up a perfect opportunity to begin a joint Navy-Air Force system development program for the next generation of AEW aircraft. The goal of a Navy-Air Force AEW program should be the development of a system that can be integrated in a carrier-based aircraft—such as the S-3 Viking—and a land-based aircraft such as the C-17 or the KC-10. A joint development program would reduce significantly the research and development costs of an AEW system for both services, as well. As an initial contribution to a joint AEW-development program, the Navy could use the money earmarked for the upgrading of the E-2C.

A program like this would let the Navy address its carrier-based AEW needs well into the 21st century, and ease joint-service-interoperability problems. Before the Navy can commit to this, or any other course of action, however, it must admit, as a service, that it indeed has a problem in this crucial area.•

ADMINISTRATION'S DIGITAL TELEPHONY PROPOSAL

• Mr. LEAHY. Mr. President, the administration has come to Congress seeking help to preserve law enforcement's ability to wiretap communications in light of new and developing technologies. The latest proposal would require communications service and equipment providers to accommodate law enforcement's needs in developing their products.

The Judiciary Subcommittee on Technology and the Law is working with the Commerce Committee and our colleagues in the House of Representatives to address this problem. My goal is to assist law enforcement without jeopardizing privacy rights or frustrating the development of new communications technologies.

While it is not possible to resolve the digital telephony issue in the waning days of this session, I have committed to the Attorney General and the Director of the FBI that I will work with them over the next several months. The legal and technical issues are complex. Congress has an obligation to consider them carefully.

Last week, a broad coalition of civil liberties and privacy advocates, as well as telephone and computer companies issued a report on the administration's digital telephony proposal. This analysis raises several important questions about the breadth of the proposal and about its cost to consumers. While major computer companies like IBM, Digital, Microsoft, and Sun Microsystems as well as AT&T and the U.S. Telephone Association are concerned about the administration's proposals, they agree that "the FBI is entitled to full cooperation in its efforts to exercise the powers granted to it in the wiretap statute." I agree and strongly encourage industry to continue to work with the FBI in the context of the ad hoc technical working groups that have been meeting for the last several months. I include the coalition's report in the RECORD for the information of all Senators.

Let me raise one related point. The administration has expressed concern about the increased use of encryption devices by businesses that store and transmit data. The bottom line is that the Government would like trap doors into all encryption technology that could be used by potential targets of law enforcement investigations. In the course of hearings in the House Judiciary Committee, industry representatives opposed efforts to restrict their ability to protect their systems from industrial espionage and hi-tech criminals.

I have made it clear to Attorney General Barr and Director Sessions that while I am prepared to work with them on the digital telephony issue, I have no intention of forcing American businesses to make their computer systems vulnerable. Any such proposal would have grave consequences for American competitiveness. In today's global economy, we cannot afford to hamstring U.S. telecommunications and computer industries.

The executive summary follows:

ANALYSIS OF THE FBI PROPOSAL REGARDING DIGITAL TELEPHONY

EXECUTIVE SUMMARY

Athough the FBI has characterized its proposed "Digital Telephony" legislation as relating to the preservation of government's ability to engage in authorized wiretapping, the proposal actually requires that all communications and computer systems be designed to facilitate interception of private messages, on a concurrent and remote basis—thus imposing new engineering standards that go far beyond any existing law. As currently drafted, the proposal would impose substantial costs and create significant uncertainties, despite the absence of any clear showing that the proposed measures would be either effective or necessary. In addition, the proposal raises serious security and privacy concerns.

Beginning some time last year, the FBI has expressed concern that technological changes occurring in the telecommunications industry might have an adverse affect on the ability of law enforcement officials to conduct lawful, authorized wiretapping. For example, the FBI has raised questions about its ability to extract individual telephone calls from multiplexed signals sent over light fibers using new digital protocols. Various FBI proposals have generated concern on the part of industry that the security and privacy of electronic communications and computer systems might be weakened and that the competitiveness or technical advancement of various systems might be undercut. No one in industry challenges the FBI's right to cooperation in seeking to implement wiretaps or disagrees with the proposition that law enforcement officials need communications interception tools to do their vital job. The communications industry, network users and public interest groups are concerned with the broad sweep of the FBI's draft proposal and the potential uncertainties and costs it would impose. This memorandum explains the basis for those concerns.

Although the FBI proposal is described as relating to "digital telephony," it actually applies to all forms of communication, including all computer networks. The proposal requires that equipment be designed to give access to communications on a "concurrent" basis, regardless of the mobility of a target, in isolation from messages being exchanged by any other persons. These requests may have complex and differing application in different contexts, but they would certainly introduce additional costs and substantial

uncertainties for both equipment manufacturers and everyone who offers messaging service to others. These days, the list of those covered by the proposal ("providers of electronic communications services" and "PBX owners") includes just about everyone. Because the wiretap statute was written to protect the privacy of a broad range of communications types, and because of the growing independence and intermixing of all forms of communications, the statutory language of the FBI proposal could turn out to require redesign or expensive alternation of:

(1) Public electronic mail systems, like those offered by MCI, AT&T and a host of other companies and individuals;

(2) all telephone switches and the sophisticated equipment used by long distance carriers;

(3) software used by online information services like Prodigy, GEnie, Compuserve, America Online and many others;

(4) local area networks, linking all kinds of computers, operated by small businesses, colleges and universities and many other types of organizations, including links into these systems from other homes and offices;

(5) PBXs owned by small and large businesses;

(6) high speed data networks connecting workstations with mainframes and supercomputers, as well as those carrying messaging traffic across the "Internet;"

(7) radio-based and cellular communications systems, including pocket telephones and computers with radio-based modems;

(8) the thousands of small personal computers owned by businesses, hobbyists, local governments, and political organizations that communicate with others via computer bulletin boards;

(9) private metropolitan wide area communications systems used by businesses such as large banks;

(10) satellite uplink and downlink equipment supporting radio and television transmissions and other communications; and

(11) air-to-ground equipment serving general aviation and commercial aircraft. We are becoming an information economy and, accordingly, imposing mandatory system design requirements on all those involved in the transfer of information has an impact on large numbers of people and most sectors of the economy.

There is no doubt that evolving technologies will challenge law enforcement officials and industry alike. We need effective law enforcement tools, as well as appropriate levels of privacy and security in communications and computer systems. The goals underlying the FBI proposal are valid and important ones, but they may well be best achieved without additional legislation. Industry has historically cooperated with law enforcement and is presently engaged in ongoing discussions to identify specific problems and concrete solutions. This cooperative process will lead to needed exchanges of technical information, better understanding on all sides of the real policy issues, and better, more cost-effective solutions. Congress should reject the FBI proposal and encourage continuing discussions that will lead to more specific identification of any problems and to more concrete, cost-effective solutions.

ANALYSIS OF THE FBI PROPOSAL REGARDING DIGITAL TELEPHONY

What is Proposed? The most recent proposal imposes obligations to provide various generic interception "capabilities and capacities" and empowers the Attorney General to grant exemptions, after consultation with the Federal Communications Commission, the Department of Commerce and the Small Business Administration. See Attachment A. Any person who manufactures equipment or provides a service that failed to comply with the broad and vague requirements of the proposed statute would be subject to a civil penalty of $10,000 per day.

How Serious is the Problem? The predicate for the FBI proposal is that advances in technology have made it more difficult for the government to intercept particular telephone conversations in the course of legally-authorized wiretapping. There have been few actual problems, historically, in executing authorized wiretaps. None have stemmed from characteristics of communications equipment design (as distinct from limitations in equipment capacity). On the other hand, it is clear that, over time, changes in the technologies used for communications will require the FBI (and the communications industry as a whole) to use new techniques and to acquire additional equipment and skills. Some developments, such as encryption, may make interception (or, at least, understanding the contents of what has been "intercepted") much more difficult—but in ways that are not even addressed and cannot be fixed by the proposed legislation. (It is difficult to evaluate the FBI argument that it would have asked for more interceptions if some technological barriers had not existed. There have always been and will always be some technological barriers to interception of the content of communications the participants seek to protect.)

Existing law requires all companies providing electronic communications services to cooperate fully with lawful requests from the FBI and other law enforcement officials—and there is no history of any general failure to provide such cooperation. See Attachment B. Existing law also contemplates that the government will bear the costs imposed by the government's requests for access to communications. (As noted below, the proposal does not specifically extend that principle.) There is no showing that the government lacks the financial resources to modernize its communications equipment or to fund the costs of lawful interceptions that it initiates. Since the total number of content wiretaps in 1991 authorized by Federal and State courts was only 856 taps (and almost 60% of these were at the State level, 356 Federal versus 500 State), and since the call-set up or pen register tap orders for 1991 at the Federal level were only 2,445, (thus, implying a national total under 7,000), it appears the costs may be better targeted to the specific lines or ports necessary, instead of burdening all lines or ports existing in the network. See Administrative Office of the U.S. Courts "Report on Applications For Orders Authorizing or Approving the Interception of Wire, Oral, or Electronics Communications (Wiretap Report)" for the period January 1, 1991 to December 31, 1991 and letter from the Assistant Attorney General W. Lee Rawls to the Honorable Jack Brooks, Chairman of the Committee on the Judiciary of the United States House of Representatives, dated April 23, 1992, providing the annual report of the Attorney General on pen register orders. By comparison, there were over 138 million access lines as of December 31, 1990 according to the United States Telephone Association and this does not include ports used for cellular or many other network accesses. (We understand the current FBI budget provides for $9 million for new digital telephony interception equipment.) Thus, although there is valid reason to be concerned that changes in technology will challenge law enforcement agencies to find and adopt new techniques, there is no immediate crisis requiring swift action.

Broad Scope of the Current Proposal: The FBI proposal covers all providers of "electronic communications services" and all "private branch exchange operators." These days, that means just about everybody, including every business that has its own phone switch and every company that operates its own local or wide area computer network. The Electronic Communications Privacy Act defines "electronic communications services" to include electronic mail, file transfers over a Local Area Network ("LAN") and, indeed, every form of transmission of a message other than voice telephone calls (which are also covered by the proposal as "wire" communications), and sound waves in the open air (the only form of communication not covered by the proposal). See 18 U.S.C. 2510(12),(15). All "providers" of such services would be affirmatively required, within three years, to provide law enforcement officials with the "capability and capacity" to intercept communications. This capability would have to be provided "concurrently" with the communication, without detection (apparently without regard to the target of the wiretap possibly employing sophisticated wiretap detection capabilities), exclusive of any communications between other parties, regardless of the mobility of the target, and without degradation of service.

These absolute requirements might not be capable of being met, as a technical matter, in some contexts, regardless of costs. The proposal is redundant, in the sense that it requires the ability to access communications at all points during their transmission, even though access at one point is all that is needed in any given circumstance. Although current wiretap law requires "minimization" and use of wiretaps as a "last resort," the proposal imposes obligations on all communications systems as if preserving the ability to wiretap at any point should be the system designer's highest priority. The application of these requirements would have substantially different costs and other implications depending upon where in a communications pathway they were actually applied. In any event, they dramatically expand the nature and reach of current law—which requires cooperation but does not grant the government a right to redesign the communications network or the equipment used by large numbers of businesses.

The FBI has defended its proposal on the ground that it is only seeking to "preserve the status quo," by preventing changes in technology from taking away capabilities that Congress meant to assure when it passed the 1968 and 1986 wiretap statutes. But that mischaracterizes the "status quo". The current wiretap statutes take the communications networks as they find them and do not require any provider of communications service to redesign the system, or to refrain from using any particular technology, solely on the ground that such a technology would make interception more difficult. While there may well be sound reasons for all concerned to cooperate to seek to preserve for the government a practical ability to engage in authorized wiretapping, there is simply no existing legal authority for law enforcement officials to mandate the use of particular technologies and, thus, contrary to the claims made by the FBI, the proposal does not simply maintain the status quo, but greatly expands the jurisdiction of the At-

torney General and would represent a giant step beyond current law and congressional intent going back to 1968.

While the proposal imposes substantial uncertainties, to be discussed below, there is no question that, as drafted, it would have an extremely broad reach. As a result, it could complicate the development of various new technologies. Even though the language of the proposal would extend to cable information systems and Automated Teller Machines ("ATM"), the FBI has stressed in its proposal that various systems might be exempted by executive action. But the exemption authority is vague and standardless—so the net effect is that every system provider has to worry on a continuing basis about whether or not its system is covered. Moreover, the proposal is clearly designed to cover any system facilitating two-way conversation, regardless of the size of the communications service provider. In consequence, any small business that installs its own local PBX system for forwarding calls from customers could be required to replace its equipment with new switches that meet the law's requirements. If current online information services do not track the "services" and "features" used by those who send messages through their electronic mail channels, then expensive modifications might be mandated. Because these electronic mail systems are all being joined together, and some function as links that forward messages between other systems, all might have to be designed to all "real time" interception by retransmission to a remote site—even though delayed searches of stored files would seem to make a lot more sense in the context of electronic mail.

Costs Likely to be Imposed by the Proposal: The costs imposed by this proposal would be passed on to consumers and to all subscribers to electronic communications services. The total costs, including costs imposed by its potentially disruptive impact on planning for new computer and communication technologies, cannot be fully assessed—but would clearly be very substantial. In its report on the FBI's proposal, the General Accounting Office ("GAO"), page 1, stated: "[N]either the FBI nor the telecommunications industry has systematically identified the alternatives, or evaluated their costs, benefits, or feasibility." And further at page 4 of the GAO Report:

"[T]he [FBI's] May proposal does not address what the telecommunications industry would need to do to be in full compliance with the proposal in the event it is enacted, the meaning of certain technical terms, or who would pay for the cost of wiretapping solutions."

The proposal mandates compliance with very broadly stated functional standards and contemplates that exemptions (available from the Attorney General, without the benefit of any specific standards or criteria) will be granted only after this broad new governmental authority has been enacted into law. The most recent proposal assumes that the costs of compliance will become a cost of doing business imposed on all communications service providers—and passed on to telephone ratepayers and other subscribers to electronic communications services. (The current law's provision that the government will pay reasonable expenses incurred in cooperating with a specific request for interception have not been expressly applied to this new requirement to "provide the capability and capacity" to respond to such requests.) Communication service providers and computer equipment manufacturers could suffer major losses as a result of delays, mandatory redesigns, and even prohibition of certain technological options. There has been no opportunity as yet to compare (1) the costs the FBI would incur to modernize its approach to interception (especially given the data on the small number of taps performed annually) with (2) the costs that would be incurred by consumers as a result of mandatory limitations on new technology design applied to all technologies nationwide.

Uncertainties Created by the Proposal: By attempting to establish open-ended duties, broadly defined, in statutory language, the current proposal creates substantial uncertainties and could cause controversy to supplant cooperation. For example, although current interception orders predominantly relate to voice communications, the draft proposal covers all forms of communication. The approach could sweep up systems ranging from the cellular pager to the high-speed network designed to transfer digital data between supercomputers. It raises a wide variety of questions:

What exactly are the boundaries of the "public switched network" to which the proposal refers?

On what basis would the Attorney General choose, or be required, to provide exemptions?

How would the proposal affect systems that regularly encode messages at the point of origin?

Does the required provision of capacity to intercept "concurrent with the transmission to the recipient" mean that an electronic mail or voice mail or facsimile mail system must be designed to signal the system operator every time a message from a target of an investigation is accessed by the person to whom that message might have been addressed?

Will it be technically feasible to detect and separate just those parts of communication signal coming from a particular residence or other source, that "exclusively" represent the content coming from a particular individual?

What is meant by the new, broad requirement that the government be told what "services, systems, and features" have been used by the subject of the interception?

Does the required provision of interception capacity "notwithstanding . . . the use by the subject . . . of any features of the . . . system" have the effect of requiring the system provider to offer to defeat any encryption mechanism it may provide to subscribers?

Does the requirement to provide interception despite the target's mobility mean that systems that inherently allow users to send and receive from multiple points, without notice, cannot be used at all?

Will it be physically possible or economically feasible to prevent "degradation of services" if the functional requirement for real time tracking of any target means that some central database must be checked by the service provider's computers every time a communication is made?

We don't know the answers to these questions, despite their importance. More importantly, the answers to key policy questions may differ substantially depending on what particular technology and interception need (and minimization goal) is being addressed. And we don't even know by what means providers of electronic communications services and designers and users of electronic communications and computing equipment will find out how the requirements will be applied to their systems. In short, the FBI's proposal, as currently drafted, may generate new and unnecessary controversy, despite its legitimate goals, by attacking perceived problems at the wrong level of generality.

Threat to security and privacy: Ironically, in addition to creating uncertainty and imposing costs, the proposal would itself create new and serious security risks and undermine the privacy of electronic communications. If electronic communications service providers must design their system to allow and ensure FBI access, then the resulting mandatory "back doors" may become known to and be exploited by criminals. Business is currently attempting to achieve greater security in its communications, to counter the threats posed by unauthorized access, computer viruses, and electronic theft. A proposal the FBI seeks to justify in terms of law enforcement could well have the effect of facilitating violations of law and reducing or preventing effective security measures.

Threat to International Trade and Security Interests: As drafted, the proposal appears to threaten U.S. interests in international trade and competitiveness. Potential purchasers abroad may not buy products or systems that they know have a "trap door" the United States Government can easily open. If U.S. manufacturers of communications systems and equipment and computer software have to go through a bureaucratic certification or clearance process that is not applicable to their foreign competitors, their race to the market with new technologies will be slowed and their products and designs will be disadvantaged.

Legitimate Law Enforcement Interests and Concerns Can and Should be Served: There is no doubt that authorized wiretapping is an important weapon properly used by the FBI to fight serious crime. And there is general agreement among communications service providers, and the makers of communications and computing equipment, that the FBI is entitled to full cooperation in its efforts to exercise the powers granted to it in the wiretap statute. If new technologies require changes in police tactics, then accommodations may be needed on all sides to make sure that new tactics that do not threaten the effectiveness or safety of law enforcement (or unreasonably threaten privacy interests) are available. The FBI proposal has served a valuable purpose in drawing attention to the need for adequate planning and redoubled cooperative efforts.

It is Too Soon to Tell Whether Legislation will be Necessary: Despite the good intentions underlying the FBI proposal, there is certainly no demonstrated need to hamper U.S. technological advances, harm the competitiveness of the U.S. communications or computer industries, or hinder efforts by business to increase computer security, just to make sure that law enforcement officials can continue indefinitely to use the same equipment and procedures that were appropriate for an earlier technology. There has as yet been no clear showing that the design of new technologies will not permit reasonable, affordable and effective techniques to be used for authorized interception. There has been no showing that the industry will not or cannot cooperate fully, share technical information under appropriate protections, and even design and supply new equipment at reasonable cost, insofar as these steps prove necessary for the FBI to accomplish its mission. There has been no clear showing that any capacity limitations could not readily be remedied with the provision of adequate financing for government law enforcement operations.

The Current Proposal is Clearly Premature, in Light of Active Ongoing Efforts by Industry to Identify and Solve any Serious Problems: An ad hoc coalition of interested parties has joined together to study the issues posed by the FBI's proposal and to begin discussions involving various business interests, public interest groups, the law enforcement community, legislative staff, and representatives of the Administration. All involved recognize that the FBI is entitled to have adequate tools to fulfill its law enforcement objectives. For its part, the FBI has recognized the value of industry cooperation and the need for a more robust exchange of technical information. Once the technical issues come into focus, particular policy issues may be ripe for decision, in a context in which the costs and implications of such decisions for trade, security and privacy concerns will be much more clear. Technical Working Groups representing both the telephone companies and the computer industry are hard at work—but the issues are complex and even the first stage of identifying serious potential problems for law enforcement will take some time. Consideration of proposed solutions should await the results of these detailed and technical discussions.

CONCLUSION

As the broad collaboration that accompanied consideration of the 1986 amendments to the wiretap statute showed, the public interest in sound law enforcement, and public expectations of privacy and security, are best served by encouraging a constructive exchange of views among industry, concerned citizens and government, before any new legislation is enacted. Congress should reject the FBI proposal and encourage continuing discussions that will lead to more specific identification of any problems and to concrete, cost-effective solutions.

Electronic Frontier Foundation.
ABCD—The Microcomputer Industry Association.
Advanced Network & Services, Inc.
Agson, Inc.
American Civil Liberties Union.
Arrow.
AT&T.
Cellular Telecommunications Industry Association.
Computer and Business Equipment Manufacturers Association.
Computer and Communications Industry Association.
Computer Professionals for Social Responsibility.
Digital Equipment Corporation.
Eastman Kodak.
Electronic Mail Association.
Graphics Technologies, Inc.
IBM.
Information Industry Association.
Information Technology Association of America.
Iris Associates.
Logistics Management, Inc.
Lotus Development Corporation.
Merisel, Inc.
Micro Computer Centers Inc.
Microsoft Corporation.
Okidata.
Oracle.
Panamax.
P C Parts Express.
Prodigy.
Seneca Data Distributors, Inc.
Software Publishers Association.
Sun Microsystems.
Telecommunications Industry Association.
United States Telephone Association.
Westbrook Technologies.●

S. 2362, SOCIAL SECURITY ACT AMENDMENT, MEDICARE REIMBURSEMENT FOR THE SERVICES OF NEW PHYSICIANS

● Mr. D'AMATO. Mr. President, I rise today to join 32 of my distinguished colleagues in cosponsoring S. 2362, the Medicare Physician Payment Equity Act. This bill, introduced by Senator MCCAIN, seeks to correct an inequity in title XVIII of the Social Security Act regarding the Medicare reimbursement rates for the services of new physicians.

Currently, new physicians receive Medicare reimbursement at a reduced rate for the services they provide Medicare beneficiaries. New physicians in the first year treating Medicare beneficiaries receive reimbursement for their services at a rate reduced by 20 percent. This rate is reduced 15 percent in the second year, 10 percent in the third year and 5 percent in the fourth year. Although new physicians are usually those who have just completed their medical training—including extensive and intensive residency training—new physicians, as defined by the current Medicare reimbursement policies, can also be individuals who have practiced for a number of years. They may never have treated Medicare beneficiaries and received Medicare reimbursement; may have been in military service practicing medicine; or may previously have been members of a group practice.

I believe that the current policy of reduced reimbursement is discriminatory. In real terms, new physicians often have higher expenses that physicians who have been in practice a number of years. They are often repaying substantial student loans for the high cost of medical education and may have heavy startup costs of establishing a practice.

In the spirit of physician payment reform and with the practical consideration of encouraging Medicare participation, we must rectify this inequity. I am pleased to join this bipartisan effort in cosponsoring this legislation.●

ORDERS FOR TOMORROW

Mr. EXON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 8:30 a.m., Wednesday, September 30; and that when the Senate reconvenes on Wednesday, September 30, the Journal of the proceedings be deemed to have been approved to date; that the call of the calendar be waived, no motions or resolutions come over under the rule; and that the morning hour be deemed to have expired.

I further ask unanimous consent that the time for the two leaders be reserved for their use later in the day; that following the Chair's announcement, there be a period of time for the transaction of routine morning business not to exceed beyond 9 a.m., with Senators permitted to speak therein for not more than 5 minutes each, and with Senator DECONCINI recognized for not to exceed 20 minutes; and that at 9 a.m. the Senate return to executive session to resume consideration of the START Treaty under the previous order.

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

ADJOURNMENT UNTIL TOMORROW AT 8:30 A.M.

Mr. EXON. If there is no further business to come before the Senate today, I now move that the Senate stand adjourned in accordance with the previous order until 8:30 a.m., on Wednesday, September 30.

The motion was agreed to, and the Senate, at 8:45 p.m., adjourned until Wednesday, September 30, 1992, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1992:

THE JUDICIARY

DENNIS G. JACOBS, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

ANITA A. BRODY, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING THOMAS B. RODINO, AND ENDING KENNETH T. VENUTO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 9, 1992.

COAST GUARD NOMINATIONS BEGINNING ROGER W. BOGUE, AND ENDING FRANCIS L. SHELLEY III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 9, 1992.

COAST GUARD NOMINATIONS BEGINNING ADESTE F. FUENTES, AND ENDING KRISTIN A. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 1992.

COAST GUARD NOMINATIONS BEGINNING ROBERT J. FULLER, AND ENDING CARRIE M. STOFFEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 25, 1992.

EXTENSIONS OF REMARKS

DESPITE GAINS, DEAF STILL FACE FRUSTRATIONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. STOKES. Mr. Speaker, recently, an article which appeared in the Cleveland Plain Dealer newspaper caught my attention. In the article a reporter examined the many problems which confront members of the deaf community. It was determined that despite new laws, advanced technology, and other gains, obstacles in communicating still exist, creating additional hardships for those who cannot hear.

One of the persons spotlighted in the article is Mr. Charles Williams, a member of the hearing impaired community who resides in my congressional district. Earlier this year, I selected Mr. Williams to serve as my congressional senior citizen intern in Washington, DC. In my meetings with him and throughout his internship, I found Mr. Williams to be an articulate and convincing spokesman on behalf of the hearing impaired.

Mr. Speaker, I urge my colleagues to take a moment and read the Plain Dealer article. While we applaud the enactment of the Americans With Disabilities Act, this article is a strong reminder of what must be done to assist those who cannot hear as they seek to lead independent lives.

DESPITE GAINS, DEAF STILL FACE FRUSTRATIONS

(By Karen Farkas)

Many would say Charles Williams has succeeded as a deaf man in a hearing world.

He retired from a fulfilling job, can communicate orally and is active in many organizations.

But he is frustrated by the slow progress in his quest to make life better for himself and others who cannot hear.

Despite new laws, technology and other gains for the deaf, problems in communicating still exist—leading to continued distress as they try to lead independent lives.

"People tell me to 'be patient,' as they try to understand what I say or my requests for TDDs (telecommunication devices for the deaf)," said Williams, 61, of Cleveland Heights. "They insult me when they use those words. I have waited 40 years and I only have one life."

As the annual Ohio Deaf Awareness Week begins tomorrow, some deaf people in Northeast Ohio say there has been some success. Prior federal law and the enactment this year of the Americans With Disabilities Act give them clout in seeking jobs and requesting interpreters or other aids so they can work and communicate more effectively.

Technical achievements allow communicating by computer or facsimile machines as well as pay telephones, which also have capabilities for TDD. The machines allow the deaf to type their communication. Close-captioned television programs are now available.

A statewide telephone relay system to link the deaf to the hearing world via TDD will be in place next year. College students can receive a foreign language credit for American Sign Language, and it is taught in some school systems.

But the deaf also said that while the Disabilities Act may help a deaf man or woman who has a job, it does not make it easier to get hired. They say there is a shortage of interpreters, many deaf people cannot afford the new technology and they have been unable to garner the support others with disabilities have because of communication problems.

"Deaf people are at the bottom of the priority list," said Verne Taylor Jr., of Brunswick. "When I went to Columbus to try and get money, the officials saw all these people in wheelchairs or the blind with dogs. I was the only deaf person. They got all the money. Why? Because we are invisible. Our disability isn't apparent."

Williams said the blind and those with other disabilities are better advocates for their needs because "they pick up a phone simple and easy. The deaf would be good advocates if they had the communication skills. Hearing people feel deaf people would take up too much of their time to communicate."

Taylor, a woodworker who is a former licensed practical nurse, is active in the deaf community. He said it is important that the hearing world have a more open mind about deafness.

He and other deaf advocates say it's not that people deliberately discriminate against the deaf; it is simply that the public does not understand the deaf have a right to an interpreter if one is requested and TDDs should be available in public places and businesses.

Instead, most people wrongly believe a hearing parent or relative can provide interpretation, a hearing neighbor can make the phone calls or the deaf can write what they want.

"In general, the deaf community has found itself consistently on the periphery of the hearing world figuring out how to get in," said Bernard Henri, executive director of the Cleveland Hearing and Speech Center. "Unfortunately, the hearing world has some very poor beliefs and attitudes in regard to deaf persons. You still hear 'deaf and dumb.' The hearing world believes 'Because you are not able to communicate like I communicate, something must be wrong.'"

When Florian Grim applied for a job at Lincoln Electric Co. in the 1940s, most able-bodied men were at war, yet it took at least five requests before the deaf man was hired.

He said he was an oddity and even drew the scowling attention of the company's president, James Lincoln, who watched him work at a lathe for an hour. Then Lincoln indicated to the foreman that Grim had done good work.

"Lincoln said he never believed a deaf person could work," Grim, 73, recalled. "He thought the insurance would not cover it. If there hadn't been a war, they would have pushed us deaf people aside."

Jenny Jaske found the same apprehension 40 years later. Jaske, who can speak as well as use sign language, has a degree as a dental hygienist from Lakeland Community College.

"When I applied for a job the dentist couldn't believe I could do it," said Jaske, 28, of Lyndhurst. "He asked me to work for him one day without pay and I did. He was surprised I could do it and hired me. There are still people out there that don't realize deaf people can work."

About 25,000 of the 125,000 hearing-impaired people in Cuyahoga, Lake, Lorain, Geauga and Medina counties are deaf, said Mary Ann Jividen, chairwoman of community services for the hearing and speech center.

"The (Disabilities Act) is very good and I feel it gives deaf people more opportunities to get equal rights," said Jividen, of Chardon. "But while deaf people have the right to get an interpreter, businesses do not think they have to pay for it."

Henri said a local hospital recently treated a deaf youngster who had a vision problem. "They did not want to get an interpreter," he said. "They said, 'If we have to, we do not want to see those people anymore.' They did not think one was needed."

Henri and Jividen said it is unfair to ask a hearing relative to interpret because it puts undue stress on the family. "You do not want to talk about personal medical problems through a daughter or son," Henri said.

Both of Jividen's daughters can hear. "Long ago, deaf people relied on parents, brothers and sisters to help," she said. "When a hearing child was born, he or she almost had to become an adult because he was burdened with the parent. That should not happen now."

Lori Henderson, president of Deaf Services of Cleveland Inc., recently met with a group of doctors discussing a case involving a deaf patient. "One question a lot of doctors asked was, "Can't I just use your family to communicate?" she said. "If communication is the cornerstone of your treatment, you want someone there who is objective and does not fall apart when giving diagnostic information."

Henderson said her agency recently provided interpreting services for a deaf defendant at a pretrial hearing in Lakewood Municipal Court, but the court refused to pay the $60 fee.

"There is no question the deaf person had the right and liberty to request interpreting services," she said.

Rosemary DeJohn, the assignment commissioner/chief bailiff at the court agreed, but said official procedure was not followed.

She said Judge Patrick Carroll will not pay for an interpreter unless one is requested. "This person was not appointed by the court, and it is as if you went out and hired your own counsel," DeJohn said.

While Jividen, Henderson and others seek access to more interpreters, Williams' battle is for more TDDs, which must be made available to deaf people who request them under the Disabilities Act. He said it costs about $200 for such a system in a school or business.

He said Oxford Elementary School initially balked when he requested it to provide a TDD so officials could contact him about his

daughters, ages 7 and 10. "School officials refused until I filed a complaint with the EEOC," he said.

And even when there is a TDD, such as at utilities, many include the message that the deaf will receive a response a day later, he said.

"If your power is out, you have to get a hearing person to call," he said.

Williams worked for the Cuyahoga County engineer's office for 35 years and retired as superintendent of the Brooklyn yard. His Cleveland Heights home has several TDDs, a closed-caption machine for his television, a signal if his smoke detector is activated and a light that flashes when his telephone rings. He also has a portable TDD.

"People of low income can't afford this," he said.

He said many deaf people find jobs with the federal or state government because they must follow guidelines, or at smaller businesses, because the deaf are often willing to work at lower-paying jobs.

Bob Fleck said he found a job at what is now TRW because there was a war. Fleck, of Cleveland, said he had a good job until the war ended, then he was made third-shift inspector. He said he was only able to get a promotion in the 1970s after he pointed out the passage of the Rehabilitation Act of 1973, which prohibits discrimination.

Mark Franklin of Parma said he was placed in a learning-disabled class in his hometown of Lima because of the lack of deaf awareness. He now has an accounting degree and works at Ohio Bell Telephone Co.

"I prefer being out in the world," he said. "I hate to hide. It will take time for a lot of things to change, but business is not in a big hurry."

Jaske, the dental hygienist, said she was discouraged at Mayfield High School when she sought to enroll in advanced classes. "They said it is too hard, and I couldn't do it," she said. "I was still being held down."

Jean Cox, 28, of Garfield Heights, also attended Mayfield High School. She works as a data coordinator at a steel company. The woman she replaced answered the telephone, she said. "My boss told me not to worry because the fax would take care of it," she said. But she wondered if she would be denied a promotion because she could not use the phone.

She said officials are pleased with her work. "They said I get more work done because I can concentrate and don't stand around talking all the time," she said.

"Things are still the same," said Linda Mahmood, president of the Ohio Association of the Deaf in Cleveland. Mahmood, of Rocky River, is a federal account clerk.

"I have a degree and can prove I can work but they look at experience," she said. "You struggle for job promotions and they demand competency in oral and written communication. That is discrimination."

But some in the deaf community said all the blame can't be attributed to those who hear.

"Part of it is our fault; we have to be more assertive," said Mary Ellen Czlabniak, of Cleveland.

Taylor agreed. "Deaf people take advantage," he said. "People will say 'A hearing person will do this for you,' and we say 'OK' and let it happen."

NEED FOR MORE RESTRAINT, NOT SALES OF WEAPONS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. FASCELL. Mr. Speaker, ever since the successful end of the war against Iraq, a bipartisan majority in Congress has called upon the executive branch to avoid business-as-usual arms sales to the Middle East region and to negotiate a multilateral arms restraint regime to limit future arms sales. This congressional initiative as contained in Public Law 102–138 is consistent with the President's remarks before a joint session of Congress on March 6, 1991: "It would be tragic if the nations of the Middle East and the Persian Gulf were now, in the wake of war, to embark on a new arms race."

This congressional effort was intended to jump-start the process toward restraint, to challenge ourselves and the international community to cooperate in stemming the flow of arms to the Middle East and to promote lasting peace in the region. The President endorsed this position on May 29, 1991, when he called for negotiations among the "Perm Five" for purposes of establishing a multilateral arms restraint regime. After three rounds of talks, there has been some progress toward greater transparency and consultation among arms suppliers, as well as an agreement in principle to common guidelines, as noted in my previous RECORD inserts dated October 24, 1991, and November 1, 1991.

Over the past 2 years, the Committee on Foreign Affairs has sought reassurances from the administration that the United States is indeed leading the effort to end business-as-usual arms sales. Yet throughout the oversight process, we have remained unconvinced of the administration's commitment to restraint. There is a troubling discrepancy between the administration's rhetoric and the reality.

Consider the following: the United States has had the highest share of arms transfer agreements with the Middle East—50 percent—since 1988. In 1991, the United States ranked first in Third World arms transfer agreements at $14.2 billion, 75 percent of which—over 10 billion dollars' worth—were with the Middle East. Since the end of the gulf war, there have already been over $20 billion in U.S. agreements, with over $10 billion being proposed by the Bush administration in this month alone.

Multibillion dollar arms sales—F–16's to Taiwan and F–15's to Saudi Arabia, for example—raise many sCMDerious questions about the credibility of United States foreign policy in the post-gulf war and post-cold-war era. It is short-sighted to stimulate the arms race for purpose of redressing economic problems in the United States. We cannot and should not rely on defense spending to bring about a long-term domestic economic recovery.

With these thoughts in mind, Congressman LEE HAMILTON and I issued a joint statement earlier this week on a new CBO study entitled "Limiting Conventional Arms Exports to the Middle East." This study makes a pathbreaking contribution to the search for more effective regional arms restraint. This study explores the political and economic feasibility of both qualitative and quantitative limits on transfers of conventional weaponry. The study examines policy options involving some 5 to 10 of the world's largest suppliers. Even without Chinese participation, such a group could control over 90 percent of the world's arms trade. The arms control options in this study deserve careful consideration by the United States and other large arms exporters.

Recent decisions by the administration to continue its multibillion dollar arms trade could accelerate a new round in the regional arms race. Many of us are concerned that continuing to sell arms for domestic and economic rather than foreign policy reasons will work against the Middle East peace process, thwart efforts to promote diplomatic rather than military solutions to regional disputes, and undermine international efforts to develop an effective multilateral arms restraint regime.

These and other concerns are reflected in my opening statement during the September 23 Arms Control Subcommittee hearing on the F–15 sales to Saudi Arabia and in my September 28 joint statement with HAMILTON on the CBO study. The complete texts of these statements now follow:

STATEMENT OF HON. DANTE B. FASCELL

Good morning. Today, the Subcommittees on Arms Control, International Security and Science and Europe and the Middle East are meeting in joint session to receive testimony relevant to the administration's announced decision to fulfill a request from the Government of Saudi Arabia to purchase 72 F–15 E line production aircraft which have now been redesignated as the F–15 XP. While many would say if it comes off an E line, flies like an E line and quacks like an E line aircraft, it must be an E line aircraft—I guess we'll just have to assume that XP stands for "Extra Planes" or "Extra Plus." And by that, I mean that "Extra" aircraft "Plus" more aircraft in the Middle East equals what appears to be a return to "business as usual" in arms sales in the Middle East, despite this Committee's commitment and enactment of legislation calling for conventional arms control in the Middle East.

At the outset I must say that I have no illusions that this sale will be prevented or disapproved. Our nation's economy is in such straits as we have no other alternative but to proceed with the sale of F–15's to Saudi Arabia, F–16's to Taiwan and Greece, satellite sales to the People's Republic of China for launch on board the Long March Missile, and a host of other notifications that have been forwarded to the Committee since the end of July. And here, I would like to set the record straight.

On July 20th and again on August 11th, officials of the executive branch met with staff of the House Foreign Affairs Committee in advanced consultations with respect to an array of notifications the administration wanted to proceed with pursuant to sections 36(b), (c) and (d) of the Arms Export Control Act. These types of consultations are normal, legally required and part of the process through which this Committee reviews all pending arms sales. And, let me tell you for the most part, it's a good process and for the most part, it's a process that works. At the same time, I am a little dismayed by the fact that if you total these notifications, you will find that the Committee on Foreign Affairs has before it some $18 billion in arms sales to

review. Of that amount, $9 billion is included in the sale of these 72 F-15 XP aircraft to Saudi Arabia (which I know to be a valuable friend and ally of the United States in the strategically and economically important Persian Gulf region).

This sale is far from controversial. I can readily make a case for the logic behind its notification. Saudi Arabia is located in an extremely volatile region of the world. Saudi Arabia faces uncertain threats from a known belligerent enemy and potential enemy to the North with military forces in far superior numbers to those of Saudi Arabia. This sale will allow Saudi Arabia to buy time in the event that we are needed there again. This sale keeps an existing production line going at no taxpayer expense per se. It allows us the opportunity to purchase additional F-15 aircraft at some future date should the need arise. That's the logic. We've heard it before and today, we shall hear it again. But today, we are hearing it under conditions of abbreviated Congressional review.

Normally, Congress enjoys a period of twenty days of informal review of an arms sale which is then followed by a period of thirty days of formal Congressional review of such sales. And, while the administration can say they are satisfying the arms sales review procedures required by law, I wonder if they can truly say they are satisfying the spirit of that law. Here again, I would like to set the record.

On November 26, 1991, Mr. Hamilton and I were joined by five of our colleagues in signing a letter to the President with regard to arms control in the Middle East. We followed this letter with a second letter regarding the potential sale of F-15 aircraft to Saudi Arabia on March 17, 1992. In the latter case we enunciated our view and expectation that any decision regarding the potential sale of F-15 aircraft to Saudi Arabi be carried out consistent with the spirit and requirements of the Arms Export Control Act, and Public Law 102-138.

In response to those letters, General Scowcroft advised us on February 11, 1992 and again on April 22, 1992 that any decision regarding the potential sale of F-15 aircraft or other defensive systems to Saudi Arabia would be preceded by advanced consultations with Congress. I should also add that this commitment to "advanced and extensive" consultations with Congress—specifically the Committee on Foreign Affairs, on any such sale was again reaffirmed to me by Assistant Secretary of State Richard A. Clarke during a February 25, 1992 briefing on Middle East arms sales before the Committee.

As Congress approached adjournment sine die, I again contacted the President with respect to the potential sale of F-15 aircraft to Saudi Arabia via letter on August 12, 1992 citing all previous correspondence, as well as Assistant Secretary Clarke's verbal commitment to me regarding advanced consultations consistent with the Congressional review requirements of the Arms Export Control Act.

On August 13, 1992 General Scowcroft responded to me by letter stating that "any such sale needs to be carried out in conformity with the Arms Export Control Act." General Scowcroft further assured me that, "if we were to proceed with the sale, the President would do so in a manner required by law." General Scowcroft further added that while the sale was under "serious consideration, no decision had yet been made." In this regard, I take the General at his word.

We know what happened next. On Friday, September 11th the President reached his decision in St. Louis, Missouri when he announced his intent to fulfill this request. On September 14, 1992 the Committee received notification to this effect. The following day, in an effort to meet our responsibilities, the Committee received a briefing with respect to this sale. Nevertheless, as I stated earlier it would seem that its the economic engine that is driving this train. This sale saves existing jobs for a lot of people who deserve to keep their jobs. I can understand that. I can support that. At the same time, I believe one can make a fairly strong case that this sale serves short-term benefits, while potentially contributing to some long-term risks. In addition it fails to solve the fundamental economic problem of maintaining our defense industrial base, while at the same time converting it to civil applications that will serve as a boon to our economy.

That being said, I have four relevant questions. First, in that we all knew that this sale would be coming sooner or later, why did the administration opt for the later date, thereby avoiding the twenty day informal review period and abbreviating the formal thirty day review period? Second, how does this sale square with the objectives of Public Law 102-138—in other words, how will this sale serve to curb the desires of the Governments of the Middle East to continue to purchase more and more weaponry? Third, how will this sale contribute to the nascent Middle East peace process? And finally, how will this sale contribute to solving not the short-term economic difficulties that confront our nation but the long-term economic problems we face?

[News release from the House Committee on Foreign Affairs]

CBO STUDY MAKES CASE FOR NEW APPROACHES TO ARMS RESTRAINT

WASHINGTON, D.C., September 28.—Despite short-term economic drawbacks, restrictions in conventional arms sales could improve Middle East security and lead to long-term economic and security benefits for the United States, according to a new study by the Congressional Budget Office.

Limiting shipments of major defense equipment would most affect Syria, Iran, and Iraq, without compromising the security of Israel or Saudi Arabia, the study concludes.

"Since the end of the war against Iraq, Congress has called upon the executive branch to avoid business-as-usual arms sales to the Middle East and negotiate multilateral arms restraint," said Reps. Dante B. Fascell (D-FL) and Lee H. Hamilton (D-IN) in a joint statement announcing the CBO study.

Fascell, Chairman of the House Committee on Foreign Affairs, and Hamilton, Chairman of the Subcommittee on Europe and the Middle East, noted that the United States has sold over $10 billion worth of arms to the region since the end of the Gulf War, and that pending arms sales to the region total $9 billion. The other major arms suppliers—Russia, China, Britain and France—also continue to sell large quantities of arms.

"This pattern of continuing to sell while stating a policy of restraint does not bode well for progress in negotiating multilateral arms restraint," they said.

The Congressmen noted that the CBO study "is a major contribution to the search for effective regional arms restraint."

Although restraint in arms sales could mean an initial annual $3 billion reduction in American exports, capping growth in Mideast military capabilities could save $10 billion annually by reducing U.S. force planning requirements. "This money could be used to assist the defense industry in its post-Cold War adjustment to a peacetime economy.

"To continue to sell arms for domestic and economic rather than foreign policy reasons will accelerate the Middle East arms race, work against the Middle East peace process, and thwart efforts to promote diplomatic rather than military solutions to regional disputes," the Congressmen concluded.

JOINT STATEMENT BY HON. DANTE B. FASCELL AND HON. LEE H. HAMILTON

Since the end of the war against Iraq, Congress has called upon the executive branch to avoid business-as-usual arms sales to the Middle East region and negotiate a multilateral arms restraint. This congressional initiative, contained in Public Law 102-138, is consistent with the President's remarks before a Joint Session of Congress on March 6, 1991: "It would be tragic if the nations of the Middle East and the Persian Gulf were now, in the wake of war, to embark on a new arms race."

The United States has sold over $10 billion worth of arms to the region since the end of the Gulf War. Pending arms sales to the region total $9 billion. Other key arms suppliers such as Russia, China, France and Great Britain continue to sell large quantities of arms. A pattern of continuing to sell while stating a policy of restraint does not bode well for progress in negotiating multilateral arms restraint.

This CBO study, entitled "Limiting Conventional Arms Exports to the Middle East," is a major contribution to the search for effective regional arms restraint. The study explores the political and economic feasibility of both qualitative and quantitative limits on transfers of conventional weaponry. The study examines policy options that would involve some five to ten of the world's largest suppliers. Such a group could control well over 90 percent of the world's arms trade. The arms control options in this study deserve careful consideration.

One option proposed by CBO would place equal limits on the annual imports of major defense equipment—tanks, other armored combat vehicles, artillery, helicopters, large missile and radar systems, large naval vessels, and advanced combat aircraft—by each Mideast country. According to the CBO study, this type of supplier-imposed ceiling would affect those countries posing the greatest threat to peace and stability in the region—Syria, Iran, and Iraq—without compromising the security needs of Israel. Limits could also help Saudi Arabia, allowing it to achieve parity with Iran and Iraq at lower levels of weaponry.

With respect to the billion-dollar sales proposed in recent weeks, we are deeply disturbed by the Administration's willingness to compromise longstanding foreign policy principles. It is short-sighted for the United States to rely on arms exports to promote job security. Our long-term economic and security interests are better served through investment in defense conversion and civilian job-training rather than arms export promotion. CBO estimates that restraint in arms sales could mean an initial $3 billion reduction in annual arms U.S. exports, but that capping the growth in Mideast military capabilities could save $10 billion annually by reducing U.S. force planning requirements. This money could be used to assist the defense industry in its post-Cold War adjustment to a peacetime economy.

To continue to sell arms for domestic and economic rather than foreign policy reasons will accelerate the Middle East arms race, work against the Middle East peace process, and thwart efforts to promote diplomatic rather than military solutions to regional disputes.

HONORING JOHN BRATUMIL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. ENGEL. Mr. Speaker, it is with great pride that I today join Troop 145 of the Boy Scouts of America in honoring Scoutmaster John Bratumil for 61 years of devoted service.

It is a well-known fact that young men who are active in the Boy Scouts develop an appreciation of our democratic system and the tools needed to succeed in society. It is through dedicated leaders such as John Bratumil that these valuable lessons are taught. It is virtually impossible to calculate the number of lives that have been touched in a positive way by John Bratumil as a result of his 61 years in Scouting. I am sure that each Scout who has known him, as well as all the people who have in turn been assisted by those Scouts, owes John thanks for his efforts.

I, too, join these people in thanking John Bratumil for dedicating so much time and energy to benefit others. He has truly upheld the great principles of our democracy, as well as the high standards valued by the Boy Scouts of America.

NATIONAL RADIOLOGIC TECHNOLOGY WEEK

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. ROEMER. Mr. Speaker, today I have the privilege of recognizing today the outstanding services of the radiation therapists at St. Joseph's Radiation Oncology Center in Indiana's Third District which I represent. Because excellence and good deeds are always worthy of recognition, I would like to recognize the achievements of these therapists. National Radiologic Technology Week will be celebrated November 2–6 of this year, honoring health care professionals in the fields of diagnostic radiology, nuclear medicine, and radiation therapy.

I share the belief that the health of all citizens is a major concern and responsibility of health care professionals serving the citizens of this community. I also believe that the qualified practitioners who specialize in the use of medical radiation and imaging techniques to aid in the diagnosis and treatment of diseases share a commitment to bring the people of this community a safer environment now and in the future.

Futhermore, Mr. Speaker, the St. Joseph's staff members in radiology are dedicated to the highest standard of professionalism and continually maintain those standards through education, lifelong learning, and personal commitment. Moreover, I would like to recognize National Radiologic Technology Week in its focus on the safe medical radiation environment provided through the skilled and conscientious efforts of the following radiologic technologists:

Tami L. Hock, R.R.T., C.M.D.;
Michael J. Langenbrunner, R.T.T.;
Annette M. Lent, R.T.T.;
Tonia J. Osbourne, R.T.T.;
Cynthia S. Watkins, R.T.R.;
Christine E. Weaver, R.T.T.; and
Jodie A. Wells, R.T.T.

Mr. Speaker, I would like to acknowledge the outstanding achievements of these professionals, not only through excellence in the quality of the services they provide, but also through the kindness and empathy they show to their patients. The public wants and deserves assurance that they are receiving quality radiologic services with a minimum of radiation exposure. Knowledge of the education and professional commitment by credentialed radiologic technologists provides this assurance. I am pleased to recognize the efforts of these special people.

LOOK, LISTEN, AND LEARN THE FACTS ABOUT THE CANADIAN HEALTH CARE SYSTEM

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. DINGELL. Mr. Speaker, in this election year much attention has rightly been focused on reform of our Nation's health care system. As health care costs continue to spiral out of control, a growing number of Americans are being priced out of the health insurance market.

Unfortunately, the rhetoric of the election season has not yet translated into action. Misinformation and confusion about this complex issue have slowed serious debate.

Nowhere is this more evident than in our discussion of national health insurance. False, irresponsible, and inaccurate stories about the Canadian health insurance system have been used as excuses to thwart discussion of implementing comprehensive reform in the United States.

We must correct these misimpressions and begin serious debate. For this reason, I commend to my colleagues attention the following New York Times article entitled "Canada's Medical System Is a Model. That's A Fact."

No new health care system will be perfect. This truth must not, however, prevent change. Difficult details can be addressed and reform created through reasonable compromise. As a country, we simply cannot afford to wait much longer.

CANADA'S MEDICAL SYSTEM IS A MODEL—THAT'S A FACT.

(By Theodore R. Marmor and John Godfrey)

NEW HAVEN.—Critics of Canada's medical care system contend that it is no model for America and that its good reputation vastly exceeds its mixed performance. Their claims that Canada's program is less effective, and no less costly than America's, and that it is beset by horrific waiting lists and unhappy doctors, are caricatures.

This myth-making is predictable. Because Canada has restrained its health care costs more successfully than we have, those who feed at America's $800 billion medical feast are frightened. Hence, Canada-bashing by special interests like the American Medical Association and Health Insurance Association of America, a trade association. After all, cost control means reducing the medical providers' income—the one unassailable axiom of medical economics.

Actually, Canada provides an attractive model for American reform. Canada (like most industrial democracies) combines universal health insurance with clear political accountability for raising and spending money for health services, and for the quality of the care the money buys.

Yes, Canada has its problems and, no, its national health insurance program (known as Medicare) cannot be directly transplanted. But Canada balances access, cost and quality in ways the U.S. should find instructive.

Primary and emergency care, universally insured, are readily available. No financial or administrative barriers prevent patients from seeking the services of any family doctor. Canadians are not assigned doctors from approved lists, but rather choose them: It is that simple.

Canadians visit physicians more often than Americans do and are highly satisfied with the service and the system. With a single insurer, the provincial government, there is far less paperwork for patients and doctors. More important is the widespread sense of security that comes from knowing that illness, however catastrophic, never results in financial disaster.

Are some high-tech items in shorter supply in Canada than in America? Undoubtedly. Were America to disappear, Canada would have the world's most ample supply of intensive-care units and diagnostic machinery. The real question is whether the U.S. is oversupplied with marginally effective high technology, not whether Canada is in the medical stone age.

Are there delays and waiting lists? Some, particularly for non-emergency heart surgery and hip replacement. The waiting is, however, hardly serious. Government statistics show that 96 percent of Canadians over the age of 15 get their care within seven days of requesting it.

Nevertheless, critics in conservative American think-tanks such as the Heritage Foundation propagandistically tell stories of endless waiting in Canadian medicine. The reality is far less worrisome, but the media communicate the misinformation by repeating its anecdotes.

Is Canadian care as expensive as ours? In 1991, Canada spent about 9.2 percent of its national income for medical care while the U.S. spent 12.3 percent; the proportions for 1971, the year Canadian Medicare became universal, were 7.3 percent and 7.4 percent, respectively. So, over two decades Canada learned how to insure everyone while spending less.

Doubters will object that Canada achieved this result by faster economic growth, not by less medical spending; this is partly true, but so what?

Controlling costs means living within one's means. Canada, with a health budget, decides what to spend for care. Budgetless America learns about its health costs only after the fact; few celebrate the result.

Those who attack Canadians' health insurance claim that their nation's social circumstances are so different from ours that nothing can be profitably learned by looking north. Such arguments are wildly exaggerated or simply inaccurate.

We are told Canada has proportionately fewer costly patients—the old and the poor. In fact, 11 percent of Canada's population and 12.2 percent of ours is over 65, a trivial difference, especially when contrasted with those of Germany and Sweden (where 16 and 17 percent of the citizenry, respectively, is old), which provide less costly medical care than we do.

Yes, there are proportionately fewer poor Canadians. But the implication that our exploding medical costs are caused by treating the poor—millions of whom are not insured and received little care—is mistaken.

We read that the Canadian medical system works well because of the country's disciplined parliamentary democracy. Yes, it does work well, but not primarily for that reason. Canada's supposedly disciplined Government has a budget deficit comparable to ours, and its federal system is in danger of collapse from Quebec separatism. Most Canadians love their Medicare but view government no more favorably than we do.

Canada is the country closest to ours in wealth, geography, ethnic diversity and patterns of medical practice. If we cannot learn from Canada, we cannot learn from any country

COUNTRY MUSIC CAPS OFF BANNER YEAR

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. CLEMENT. Mr. Speaker, tomorrow night, the country music industry will celebrate one of its brightest nights with the presentation of the Country Music Awards.

Artists, musicians, songwriters, industry executives and country music fans will meet in the Opry House to pass out honors to the best and most talented individuals and groups country music has to offer. It will not be an easy chore inasmuch as each of the nominees in 12 award categories is deserving in his or her own right.

This is the 26th Annual Awards presentation by the Country Music Association. And, like last year, it will be broadcast nationwide beginning at 9 p.m.

I urge my colleagues and Americans everywhere to join in the evening's celebration. Country music is more popular now than ever and the award's program promises to showcase the very best it has to offer.

In advance of the program, the Associated Press released a story which I have added to my remarks.

COUNTRY MUSIC CAPS OFF BANNER YEAR

(By Joe Edwards)

NASHVILLE, TN.—What a year for country music!

Garth Brooks tops both country and pop album charts. Billy Ray Cyrus' "Achy Breaky Heart" spurs a craze over line dancing. Wynonna Judd leaves mom at home and goes solo.

Country music honors its best Wednesday, September 30 by handing out awards and showcasing its top stars for a national TV audience.

The Country Music Association will announce winners in 12 award categories and two new members of the Country Music Hall of Fame.

Additionally, a top notch lineup will perform during a live two-hour special beginning at 9 p.m. EDT on CBS–TV.

This is the 26th year the association has presented its awards. The TV show customarily commands strong TV ratings, with last year's program finishing No. 3 in the weekly A.C. Nielsen Co. ratings.

This year's show will trot out major stars current and past beginning with Garth Brooks, who has sold 19 million albums to become the biggest selling singer in any style of music this decade.

He is scheduled to perform, then will take a seat to see if he wins the top award entertainer of the year for the second straight year.

Also scheduled to perform is country music's newest sensation, a former car salesman named Billy Ray Cyrus. An unknown last spring, he shot to fame over the summer with "Achy Breaky Heart," the biggest single crossover record out of Nashville in years.

Cyrus is a finalist for single of the year and best video, both for "Achy Breaky Heart."

Among the others scheduled to appear on the show are Dolly Parton, Wynonna Judd, Tanya Tucker, Clint Black, Kathy Mattea, Lorrie Morgan, Steve Wariner, Brooks & Dunn, Pam Tillis, Mary-Chapin Carpenter, Alan Jackson and Trisha Yearwood.

Vince Gill and Reba McEntire will be cohosts of the program, which will originate at the Grand Ole Opry House.

Country music will dip into its past era to induct one performer into its hall of fame. Finalists are Don Gibson, Marle Haggard, George Jones, Willie Nelson and Ray Price. Jones also is scheduled to perform.

In the non-performing category, finalists for the shrine are producer-businessman Harold W. Daily, producer Don Law, recording executive Ken Nelson, song publishing executive Frances Preston and broadcasting executive Irving Waugh.

Honors will be announced as three country music albums are in the top 10 of the pop music charts. They are Cyrus' "Some Gave All," No. 1; Brooks' "Beyond the Season," No. 4, and Gill's "I Still Believe in You," No. 10.

Brooks' "Ropin the Wind," which has sold 8 million copies, is a former No. 1. It's now No. 20 after more than a year on the charts.

TRIBUTE TO ED JENKINS

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. BARNARD. Mr. Speaker, it is with a sense of pride and an equal sense of sadness that I rise today to pay tribute to my colleague and dear friend, ED JENKINS, who is retiring at the end of this year.

ED and I were both elected in 1976 to represent adjoining districts in Georgia. We have served together in the House of Representatives for 16 years and as codeans of the Georgia delegation for 7 years. We have voted together on most issues, except where ED had a temporary lapse of judgment.

ED has been on the Ways and Means Committee for 16 years where he has cemented his reputation for being a tough negotiator with a shrewd understanding of tax policy. He has pushed an aggressive agenda of: Lower capital gains tax; a reduction of estate and inheritance taxes on family owned farms and estates; an exemption from unrelated business income tax for corporate sponsorship of college bowl games and the Olympic games; fair tariff protections for the textile industry; extension of the research and development tax credit; and restoration of the pre-1986 tax treatment of installment sales.

ED has also been a conscientious representative for his constituents in the 9th District. He has fought for and won more protection for the Chattahoochee National Forest, a fairer reimbursement formula for rural hospitals, and improved Corps of Engineers' management of the lakes in his district. On national issues he supports a balanced budget amendment, promotion of small business growth, and equitable tax policies for all income groups.

But, Mr. Speaker, these are only the statistics of a man who has dedicated a great part of his life to public service. Those of us who have been privileged to work with ED know him as a stalwart friend and an honest colleague.

And so today it is appropriate that this Chamber recognize the service of ED JENKINS. Today the House will consider a bill I introduced to rename Springer Mountain National Recreation Area in the Chattahoochee Forest as the Ed Jenkins National Recreation Area.

This recreation area was created in the bill ED introduced in 1991 to designate an additional 33,000 acres in the Chattahoochee Forest as wilderness or scenic land. In 1984 and 1986 he gave similar protection to 57,000 acres.

Growing up in the north Georgia mountains gave ED a personal understanding of the beauty and value of this land. He also understood that we must move to preserve these resources from over development, negligence, and misuse. His personal dedication to the beauty of the mountains led to protection of nearly 90,000 acres in the Chattahoochee Forest.

Mr. Speaker, ED JENKINS has been a courageous Member of this Chamber, a servant to his district, and a friend to us all. I urge all my colleagues to honor his accomplishments through passage of the bill, H.R. 6000.

IN SUPPORT OF THE CONFERENCE REPORT ON H.R. 5679, VA-HUD-INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1993

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of the conference report on H.R. 5679, the fiscal year 1993 appropriations bill for the departments of veterans' affairs and housing and urban development and various independent agencies.

I want to compliment the Chairman of the Subcommittee, Mr. TRAXLER, for his excellent work in assembling this legislation in an extremely demanding year. The combination of shrinking budgets and election year pressures, no doubt, made the work of the gentleman from Michigan and the other members of the committee exceedingly difficult.

This legislation is a reflection of their hard work and genuine statesmanship. It wisely balances support for maintaining the effectiveness of essential existing programs, while providing funds for innovative new approaches to solving our Nation's problems, in areas as diverse as veterans' health care, drugs in public housing, and water pollution control.

Mr. Speaker, I want to take this opportunity to express my appreciation to the chairman for including several provisions in the conference report on H.R. 5679 that are of great importance to Westchester County and the New York metropolitan area.

I am very pleased that the conferees were able to fund our request for $2 million for the New York Medical College's computerized medical information network. I want to point out, however, that the conference report, as printed in the CONGRESSIONAL RECORD, contains a small technical error where it refers to New York City Medical College. It should read, New York Medical College.

The legislation will enable the college to develop a computerized medical information network that will link the college with approximately 30 other affiliated hospitals in the region. By improving the region's medical information infrastructure, the project will improve the delivery of health care for patients and reduce costs.

Upgrading the region's medical telecommunications system will enable hospitals to save money by reducing average hospital stays, improving research productivity, and reducing malpractice claims. Enhancing medical communications in our area will also help facilities use medication more efficiently. This is all designed to translate into improved medical service for underserved communities throughout our region.

I also want to commend the chairman for including $1 million in the report for drug-elimination funding for the Levister Towers housing complex in Mount Vernon, NY. Because it does not have Federal public housing, Mt. Vernon has received very little Federal Housing aid in the past—making it difficult for the city to address problems confronting Levister Towers. This legislation brings needed Federal support to State and local efforts to fight crime and drugs at Levister Towers. These funds will empower residents to take back their neighborhood from drug hoodlums.

These funds will also maximize the effect of long-overdue investments in physical improvements at Levister Towers, which are being funded at the State and local levels. This demonstration grant will provide useful data on how a small Federal investment in drug prevention can help reverse deteriorating conditions at a State-owned facility, and avert much more costly Federal or State intervention later. Most importantly, these funds will give residents of Levister Towers what they deserve: a fighting chance to overcome drugs and crime that threaten their daily lives.

Finally, I want to thank the chairman for raising the level of funding for the national estuary programs by $3 million over fiscal year 1992 and for earmarking an additional $150,000 for the Long Island Sound study. While more funding could have been utilized, this legislation will enable the Long Island Sound study to complete its planning efforts, continue interim clean-up measures, and move on to implementing a long-term strategy for restoring the sound's vital environmental and economic assets. I will be working in the next Congress to reauthorize clean water programs so that the Appropriations Committee has a clear mandate to fund estuary clean-up efforts at the level they deserve.

With this year's VA–HUD bill, the gentleman from Michigan brings to a close a distinguished career in this house. It has, indeed, been a pleasure to know you and to work with you during the last two Congresses. I know I join many of my colleagues in saying that you will be greatly missed.

TRIBUTE TO BOY SCOUT TROOP 430 AND CUB SCOUT PACK 430

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Boy Scout Troop 430 and Cub Scout Pack 430 of Whitfield, PA. I would like to recognize these two Scout groups for their outstanding achievements and recognize the 25th anniversary of their founding.

Twenty-five years ago, Boy Scout Troop 430 and Cub Scout Pack 430 were founded in Whitfield, PA. These troops have been an integral part of the lives of boys and young men of the Reading area and Berks County ever since. Scouting has been important to the growth and development of many of the area young people. Countless young men have benefited from their involvement with these troops. St. Ignatius Loyola Roman Catholic Church has served as the charter representative for Boy Scout Troop 430 and Cub Scout Pack 430 for their entire 25 years in existence. St. Ignatius Loyola has been very generous and supportive with the Scout groups. I would like to commend St. Ignatius Loyola for its fine contributions to the community through it's involvement with the Scouting programs.

I would like to congratulate Boy Scout Troop 430 and Cub Scout Pack 430 for their 25 years of success and fine work. I ask all of my colleagues to join me in saluting both of these troops and wishing them greatest good fortune and success in the future. I am sure that they will continue to be an important part of the lives of the boys and young men of Berks County.

SOLAR RACE CAR—A WORTHWHILE INVESTMENT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a truly remarkable story about the Cal Poly, Pomona Solar Energy Team [CaPSET]. Some people are inclined to think that building a solar energy race car is a wasted effort. However, the CaPSET does not agree. They believe that they are pushing at the forefront of technology in a way that will catch the public's eye and get them excited alternatives to the present methods of transportation.

This excitement began in 1989 when Dr. Michael Shelton was teaching a class in alternative vehicles at Cal Poly Pomona. That semester General Motors sent out 4,000 invitations to universities and colleges to submit proposals for a race across the United States. The class accepted the challenge and responded with a proposal that was one of 32 chosen. Without any experience, they put together a plan that held potential, did extensive research, consulted with industry people, and generated outside support for the project. It had become a university-community project, involving volunteers, students, faculty, staff, industry, and community participants ranging from seventh graders to grandfathers. Among those in the industry who came forward to assist the project through gifts of support and consultations were Lockheed, McDonnell Douglas, the AQMD, and American Honda.

Every stage of the vehicle's development pushed the limits of current technology. The car was custom made and required a one-of-a-kind electric motor drive system which had to operate at a level of efficiency not previously expected or demanded. Each element of the car required new thinking and design, even down to the battery. The project depended on people who were taught about combustion engines being able to rethink the very basic construction of a motored vehicle. Usually, vehicles are made of steel and metals. This vehicle had no interior metals at all, only a structure of carbon composites.

CaPSET has successfully developed two solar energy cars, and is looking to build its third in 1993. The current vehicle, Solar Flair, has done very well for itself. It has taken first place at the APS Solar Electric 500 and placed first at the Tour de Mendo, part of the Solar Energy Expo and Rally. It represented the United States at the Grand Solar Challenge in Japan by invitation of the United States Department of Energy. The new vehicle which is in the design stages, is scheduled to race in the Sunrayce 1993 as well as the World Solar Challenge in Australia. They are obviously doing something right. The efforts of these pioneers deserves to be recognized and encouraged as we struggle to find ways to balance our environmental concerns with the desire for an efficient and effective means of transportation.

NATIONAL FARM SAFETY WEEK

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. DURBIN. Mr. Speaker, I rise today to call attention to a vitally important issue in rural America—farm safety. Congress, the administration, and the men and women who own and operate family farms throughout our Nation joined together last week in recognizing National Farm Safety Week.

It may interest my colleagues, those who represent both urban and rural districts, to know that despite recent decreases in overall work-related accidents, agriculture still proves to be the most hazardous U.S. industry. Farming has surpassed mining and construction as the Nation's deadliest occupation. In 1989, for example, an estimated 1,300 lives were lost and 120,000 disabling injuries occurred on America's 2,087,759 farms and ranches. Victims of farm-related injuries in this country incur approximately $2.5 billion in hospital and rehabilitation costs each year. Farm-related accidents don't discriminate in terms of age. In 1987, 300 children under the age of 16 died and more than 23,000 were injured while using or playing near farm equipment.

To generate increased awareness of this issue, on April 23 and 27, I held two farm safety and health field hearings in Mt. Vernon and Edwardsville, IL. It was my intention to open a constructive dialog on the issues of farm safety and health with representatives of farm groups, industry, educational institutions, medical facilities, and government agencies. On July 27, I convened a group of farm equipment manufacturers and dealers to discuss ways in which these two groups, together with local municipalities, universities, health care facilities, and farm organizations, could work together to confront the deadly issue of farm-related accidents.

It is my sincere hope that our discussions on farm safety raised awareness about this vitally important issue and helped develop ways to coordinate efforts and work together. Over 20 panelists joined me during the three hearings and my Illinois colleague, Representative JERRY COSTELLO, participated in the Edwardsville forum. Their testimony, along with input from the general public, helped me establish a plan to address the very important issue of farm safety and rural health. It is clear, we need education not regulation.

A farm-related accident in America leads to injury nearly 400 times a day, or 1 injury every 4 minutes. This week alone we could see nearly 3,000 farm-related accidents. The National Safety Council estimates that the cost of agriculture accidents exceeds $5 billion each year.

Mr. Speaker, in my home State of Illinois, there are 88,786 farms and 375,000 people engaged in farming activities. Illinois is consistently ranked as one of the top three States in corn, soybean, and pork production. Each year over 20 million acres of soybeans and corn are planted and harvested utilizing nearly 60 million pounds of pesticides and thousands of tons of fertilizers. All this leads to one major hazard—exposure to machinery and chemicals. The greater the exposure, the more likely it is that a farm-related accident will occur.

The University of Illinois Cooperative Extension Service recently conducted a farm accident study in the State. The findings were alarming. It was found that those who worked on 778 randomly selected farms experienced 35.3 injuries per million hours of exposure. This rate is over four times the national rate of 7.9 for all workers, according to the National Safety Council.

I think National Farm Safety Week represents another important step in increasing awareness about the devastating effect farm-related accidents can have on the agricultural sector of our country.

Building coalitions and establishing chapters of organizations to increase awareness about farm safety and health is vital to American agriculture. I think it is important to encourage groups like the American Farm Bureau Federation, the National Farmers Union, and other farm organizations to champion the effort to educate the agriculture community on farm safety and rural health. At the same time, we need to take a moment to recognize organizations like Farm Safety 4 "Just Kids" in Earlham, IA. That group works tirelessly to promote awareness and safety for children on America's farms.

Mr. Speaker, farm safety and health is one of the quieter issues affecting the agriculture community today. However, it is a quiet killer. When we can expect 1,300 people to lose their lives this year and 120,000 to suffer disabling injuries, clearly we need to increase our efforts to promote awareness and safety on the farm. To this end, National Farm Safety Week is an important step in the right direction.

THE 155TH BIRTHDAY OF COL. ROBERT GOULD SHAW

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Ms. MOLINARI. Mr. Speaker, on Sunday, October 4, 1992 a very special event will take place in my district. At Moravian cemetery on Staten Island, there will be a ceremony marking the 155th birthday on October 10th, of Col. Robert Gould Shaw.

Many are familiar with Colonel Shaw's life. He was the commander of the 54th Massachusetts Regiment in the Civil War, whose martyrdom at Fort Wagner in South Carolina on July 18, 1863 was portrayed in the movie "Glory." What most people don't know, is that Colonel Shaw was actually a resident of Staten Island, N.Y.

The movie "Glory" opted to imply that Colonel Shaw and his family hailed from Boston. Actually, the Shaw family did live in Boston, but not for 15 years before, or during the Civil War. In 1846, they moved to the West New Brighton area of Staten Island. Colonel Shaw's father, Francis George, was an ardent Abolitionist, and was instrumental in the founding of the Republican Party, with its antislavery sentiments.

Growing up on Staten Island, Robert Shaw never embraced the abolitionist movement like his parents did. For awhile, he favored the notion of "dis-union," that slave States might go their separate ways from the United States. However, when Fort Sumter was fired upon, Robert volunteered immediately, in response to President Lincoln's call for men. He joined the 7th Regiment of the New York Militia, and believed it was his duty to assist with the protection of our Nation's Capitol.

During the war, an event took place which changed not only the character of the war, but Robert Shaw's outlook as well—the Emancipation Proclamation. For many the Civil War at that point gained a clear moral purpose, it become a war to abolish slavery.

It was Gov. John Andrew of Massachusetts that asked Robert Shaw to command the 1st Regiment sanctioned by a Union State to consist of Black soldiers. To the disappointment of his parents, he declined. But, after contemplating the need for such a regiment in order to win the war, and the risks involved in forming such a regiment, particularly if it was captured by the Confederacy, he changed his mind. At the age of 25, Robert Shaw became the Colonel of the first official regiment of Black soldiers in the Civil War.

People on various parts of the political spectrum expressed doubt and ridicule at the idea of a Black regiment, and some sneered at the notion, offering common racial slurs. But, a visit with Colonel Shaw's regiment, completely changed minds. The Black troops who trained with him were dignified and disciplined, and were gentlemen as well as soldiers.

On July 18, 1863, Colonel Shaw and his troops arrived on Morris Island, near Fort Sumter where the war had begun. Their objective was to seize Fort Wagner, where Confederate soldiers were encamped. Colonel Shaw's regiment was told that there were 300 Confederate troops within Fort Wagner, however there were actually 1,700.

Colonel Shaw led the charge on horseback, while his regiment followed, many of them marching in water. The 54th Regiment was completely out-armed, out-numbered, and outpositioned. Col. Robert Shaw fell before his regiment fired a single shot. Hundreds of his men fell with him and others were captured. At the request of his family, Colonel Shaw's body was not returned to Staten Island, but was buried in the mass grave with the Black soldiers who had fallen with him.

Mr. Speaker, Col. Robert Gould Shaw and the 54th Regiment risked their freedom and gave their lives in order that all of us could enjoy our freedom. They withstood harsh criticisms and proved that all men, regardless of color, can defend our country's principles with courage and distinction. And I am honored to have this opportunity to pay tribute to Colonel Shaw, on his birthday.

TRIBUTE TO CHARLES DE BRETTEVILLE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. EDWARDS of California. Mr. Speaker, it was with deep regret that I have learned of

the death of Charles de Bretteville, who passed away recently in Monterey, CA.

I and many of my California colleagues here in Congress were personal and business friends of Charles de Bretteville. He attended Stanford University when I was a student there, and we were personal friends and members of the same fraternity. He was greatly admired and respected by all who knew him. He was a charming, kind, and affectionate friend.

Charles de Bretteville was for many years one of California's most noted and honored business leaders. He had served as president of the Bank of California and of Spreckles Sugar Co. He had served on the board of directors of Shell Oil Co., Safeway Stores, Bishop Oil Co., Clear Lake Water Co., Calaveras Cement Co., Pacific Gas and Electric Co., Western Union, and Ridder Publishing Co.

He was also a founding director of Pacific Bank, a trustee of Menlo College, president of the Pacific Union Club, and a member of the Burlingame Country Club and Cypress Point Club.

A native of San Francisco, he was a graduate of Galileo High School, Stanford University, and Harvard Business School. During World War II he served in the U.S. Navy aboard the aircraft carrier *Bunker Hill* in the Pacific campaign.

Mr. Speaker, the many friends of Charles de Bretteville here in Washington will miss him, and we send sincere sympathies to his widow, Frances; his two daughters, Leslie de Bretteville of San Francisco and Frances Blair of Chicago; two sons, Peter de Bretteville of New Haven, CT, and Charles Lock de Bretteville of San Jose; and eight grandchildren.

HONORING ANGELO MARTINELLI

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. ENGEL. Mr. Speaker, on this 500th anniversary of the historic voyage of Christopher Columbus, our Nation is celebrating the contributions made by many outstanding citizens, particularly those of Italian-American descent. This week in my district, the Yonkers Columbus Day celebration committee is honoring Angelo Martinelli, a person befitting such recognition.

As the former mayor of Yonkers, and through his many affiliations within the community, Angelo Martinelli has been a vital force in Yonkers. Those affiliations are too lengthy to mention here, but in each case Angelo Martinelli brings a dedication to his neighbors and a keen insight of community needs to the task at hand. His work to create economic opportunity and to enhance the rights of every citizen actually extends beyond the borders of Yonkers to many neighboring communities.

I know Angelo's wife, children, and grandchildren share a special pride in his accomplishments. They, too, are to be thanked for allowing him to devote so much time and energy to the community.

Also to be congratulated is the Yonkers Columbus Day committee for organizing this year's events and for honoring such a worthwhile individual. I join the committee in extending thanks to Angelo Martinelli for his many and varied contributions to the people of Yonkers.

RESOLUTION HONORING THE 20TH ANNIVERSARY OF THE NATIONAL HIGH BLOOD PRESSURE EDUCATION PROGRAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. STOKES. Mr. Speaker, in 1972, some 20 years ago, concerned citizens asked for governmental leadership in assisting the fight with a major health threat, high blood pressure. The result was the formation of the National High Blood Pressure Education Program [NHBPEP], a community-based program with the goal of increasing awareness of both hypertension's dangers as well as ways to prevent and treat this silent killer. Today I introduce a resolution which addresses the continuing recognition of the exemplary achievements of the NHBPEP. This resolution is entitled the "National High Blood Pressure Education Program 20th Anniversary."

The measure is intended not only to recognize the dramatic achievements of the NHBPEP in terms of our Nation's health, but also to continue to raise awareness of a major silent killer affecting 25 to 33 percent of Americans, that is hypertension or high blood pressure.

Hypertension as it is clinically known, continues to pose a major threat to the health of this country. Statistics are alarming in that 60 million Americans are affected by this chronic health condition. Overall, 1 in 4 Americans are diagnosed with high blood pressure and 1 in 3 African Americans have hypertension. Hypertension is the leading cause of stroke and a major contributor to heart disease and renal failure, particularly among African Americans, who have a higher incidence of high blood pressure than whites.

Twenty years ago when the NHBPEP was formed, by a group of concerned citizens, at the community level most Americans had never had their blood pressure checked—today, nearly 80 percent of the U.S. population have had their blood pressure measured within the past year. At that time only 24 percent of Americans were aware of the relationship between elevated blood pressure and stroke and heart disease—now 90 percent are. Twenty years ago, only 16 percent (fewer than 1 in 8) of the population were controlling their blood pressure—now 1 in 2 are. Since the NHBPEP began, the age-adjusted heart disease death rate has dropped by 45 percent and the stroke death rate by 57 percent.

Within the short span of 20 years, the NHBPEP has mobilized 217 organizations at the local, State, and Federal, levels toward a common goal: Eradication and reduction in the premature deaths from hypertension. The NHBPEP continues to play a major role in providing a bridge between research in the basic sciences, epidemiological surveys, and clinical trial with the practical education materials needed by consumers as well as prevention and treatment guidelines utilized in treatment decision making by physicians, nurses and other health care professionals.

So today, I introduce a resolution in recognition of this important program and its historic success.

A TRIBUTE TO A FORMER COLLEAGUE, NEW JERSEY'S MILLICENT FENWICK

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. FASCELL. Mr. Speaker, it was with a full measure of both loss and sadness that I learned of the recent death of a former colleague and friend, Millicent Fenwick.

Mrs. Fenwick was an outstanding Member of Congress for 8 years and a very active and valued member of the Committee on Foreign Affairs where she and I served together.

After a successful career as a writer and editor in the New York fashion world, Mrs. Fenwick chose to devote her life to public service, first as a community volunteer and then in the arena of State and Federal government.

She was elected first to the State Assembly of New Jersey where she served for 3 years. And then, at the age of 64, she was elected to the U.S. House of Representatives from the Fifth District of her State in 1974.

In Congress she devoted much of her energies to fighting for tax fairness, the environment and consumer rights. From a foreign affairs standpoint, she was most proud of the seminal role she played in helping to establish the Helsinki Commission to monitor compliance with the 1975 Helsinki Treaty on human rights. The impact of her work on the Commission was particularly valuable to all of us during the first few years following the signing of the pact.

After leaving Congress in 1982, Mrs. Fenwick was named United States Ambassador to the United Nations Food and Agriculture Organization, where she served her Government for the next 5 years.

The Nation would do well to remember the valued public service of this dedicated woman. Her contributions to the process of government were both determined and substantive.

We would do well to honor her memory and the service she rendered so faithfully to the United States of America and the people of New Jersey.

TRIBUTE TO THE NEW WORLD ASSOCIATION OF EMIGRANTS FROM RUSSIA

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. BORSKI. Mr. Speaker, I rise today in recognition of the 10th anniversary of the New World Association of Emigrants from Russia.

In 1982, this nonprofit organization was created in Pennsylvania to meet the needs of the Slavic language speaking people coming to the United States from the former Soviet Union and from Eastern European countries.

The New World Association is a mutual assistance association which facilitates adjustment and resettlement of Soviet and Eastern European immigrants in the Philadelphia area and promotes mutual understanding and cooperation between the community and other ethnic groups in American society.

The New World Association provides English as a second language [ESL] classes to the Russian and Slavic speaking immigrants and offers human services such as translating, interpreting, counseling, and assisting in social programs and employment.

In addition, the New World Association provides the ways and means of preserving the Russian cultural heritage, focusing on language, arts, crafts, traditions, and customs.

Since 1984, over 2,400 students have graduated from the New World Association's ESL, computer and drafting classes. This year there are 347 students, 8 professional teachers, and 6 volunteers. The association has established close cooperative ties with Federal, State, city, and other organizations. Many of its volunteers have been asked to speak on behalf of the Russian community at meetings and seminars.

Over the last 10 years the New World Association has helped hundreds of immigrants in obtaining public assistance such as supplemental security insurance, day care programs and medical assistance and has expanded its programs in working with the youth and elderly.

The New World Association, and its members who donate their time, professional expertise and physical effort, have provided an invaluable service to the Russian and Slavic speaking community of the Greater Philadelphia area.

Mr. Speaker, I join all Russian Americans in Philadelphia in saluting the New World Association of Emigrants from Russia for a decade of service to the entire community.

IN RECOGNITION OF SERVICE BY REPRESENTATIVE WILLIAM BROOMFIELD

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. WOLF. Mr. Speaker, it is a pleasure for me to rise today to acknowledge and thank one of the finest Members of this institution, Representative WILLIAM BROOMFIELD, for his outstanding service to the House of Representatives for the past four decades.

Since 1956, BILL has been an effective Representative for the citizens of Michigan, fighting for their behalf in Congress. He is renowned for his service and attention to his constituents' needs, and he earned the respect and support of those he represents. He has also earned the respect of many with his superb foreign affairs work and support for human rights around the world.

As the ranking Republican on the House Foreign Affairs Committee, BILL has been a dedicated champion of democracy and freedom for all. His support for pro-democracy organizations in Eastern Europe, Nicaragua, Afghanistan, and Grenada was instrumental to the demise of communism and totalitarianism during the Reagan-Bush era. His insistent demands and important work for human rights globally have helped bring about changes and a better life for many. BILL helped win the cold war and bring about a new era of peace, freedom, and prosperity.

BILL has always been a helpful and devoted member of this institution, and I know I speak for all of us when I offer my sincere thanks to BILL for his 36 years in Congress, and wish him all the best for a very happy and safe retirement.

TRIBUTE TO JUDGE C.B. CLARK

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. HUBBARD. Mr. Speaker, I want to pay tribute to one of Kentucky's most outstanding citizens, Webster County judge/executive, C.B. Clark, who died August 18 in a traffic accident at Dixon, KY, at age 66.

Judge Clark, one of the most effective and popular elected officials in Kentucky, was in his 15th year of service as Webster County judge/executive.

Prior to his first being elected to Webster County's highest office in 1977, C.B. Clark served 4 years—1973 to 1977—as Webster County's road foreman.

In 1969 C.B. Clark was elected Webster County sheriff and served in that office 4 years. From 1965 to 1969 he served as deputy sheriff of Webster County.

C.B. Clark's first public office was Webster County magistrate, to which he was elected in 1961.

Many Kentucky officials have praised Judge C.B. Clark. For many years my wife Carol and I have been very fond of Judge C.B. Clark and his wife Melba Clark.

My wife and I attended his funeral on August 21 at Townsend Funeral Home in Dixon. A standing room only crowd of about 300 attended.

Rev. Robert W. Vester, pastor of Dixon General Baptist Church, gave an impressive eulogy as to Judge Clark's work and activities ranging from the progress he brought to Webster County to his devotion to God and Christianity.

I believe a portion of Rev. Vester's comments at the funeral of Judge Clark deserves being quoted in this tribute:

If a man's success and worth can be measured by the friendships he has, then this man, whose loss we mourn today, was successful beyond measure, and his worth is more than can be conveyed in these words to come.

Acquaintances, friends, colleagues, relatives, and family, we have all gathered as a testimony to the impact that Choice B. Clark, Jr. has had upon all of us. C.B. touched a countless number of lives, as is evident today, with simple style—a style which did not seek adoration or accolades.

Survivors include his wife, Melba; one son, Duane Clark of Dixon; one daughter, Teresa Hibbs of Dixon; four sisters, Amanda Adkins of Wadesville, IN., Dorothy Roberts of Nebo, Naomi Williams of Boonville, IN., and Lila Pritchett of Evansville; two brothers, William French Clark and Elden Clark, both of Dixon; and five grandchildren.

My wife Carol and I extend our sympathy to Judge C.B. Clark's wife Melba and the other members of his family.

SALUTE TO ALBERT J. MANZO, CRISTOFORO COLOMBO SOCIETY'S 1992 MAN OF THE YEAR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. ROE. Mr. Speaker, I take great pleasure in rising today to pay special tribute to an exceptional community leader. Mr. Albert J. Manzo III has been selected by the Cristoforo Colombo Society as their 1992 Man of the Year. A dinner will be held in his honor celebrating his charitable works on Sunday, October 11, at the Brownstone House in Paterson, NJ.

Mr. Manzo has been extremely active in the community. He can be particularly proud of his participation in the Children's Make A Wish Foundation. He has assisted this worthy cause, raising in excess of $40,000 over the past 2 years. Also, he is currently the president of the Paterson Rotary Club and director of the Lou Costello Memorial. In addition, he is a member of the Italian American Sports Hall of Fame and the North Jersey Country Club.

The Manzo family has been an important part of the Paterson community for many years. Albert Manzo was born on April 20, 1960 to Albert "Tiny" Manzo and Anna Marie Peruzzi in St. Joseph's Hospital in Paterson. As owners of the Brownstone House, a traditional Democratic meeting place, the family has been host to many Democratic organizational events. Albert's father bought the establishment in 1979. The oldest of four children, Al has a sister Patricia who teaches in Paterson as well as two brothers, Tom and Ken who work with him at the Brownstone. He attended elementary school at St. Gerard's in Paterson and graduated from Neumann Preparatory High School in Wayne.

Albert has begun his own family with his wife Caroline. They have three children, Albert IV, Lauren, and Christopher.

Mr. Speaker, it is concerned citizens like Albert J. Manzo who add so much to the social

fabric of our society. Without the active concern and participation of individuals such as Mr. Manzo, a community would simply be a congregation of buildings and people. With the powerful work and involvement displayed by Mr. Manzo and those like him, a community blooms as a gathering of homes and businesses populated by neighbors.

Our great Nation is a melting pot of many cultures and creeds, each of whom in their own way adds to the American way of life. Albert J. Manzo's participation with Italian-American groups and with the many charitable activities in his community displays an example to which we may all aspire and take pride in. For his public service and in recognition of the enrichment of the many lives who have benefited from his kindness, Mr. Manzo is the deserving recipient of our praise and gratitude.

Mr. Speaker, I am sure that you and all my colleagues here in the House of Representatives join with me in saluting Albert J. Manzo III.

TRIBUTE TO DANIEL T. MURPHY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. CARR. Mr. Speaker, I rise today to recognize my friend and colleague, Oakland County Executive Daniel T. Murphy, who is retiring this year. I am glad to have the opportunity to celebrate the outstanding service and accomplishments of this man who has given so much to citizens of southeastern Michigan. As Oakland County Executive, Dan's perseverance and guidance serve as a model for all to follow.

Dan's contributions, both personal and professional, have had a great positive impact on the community. Since 1946, Dan has unselfishly committed his life to providing a safe, healthy, and prosperous future to the people of Oakland County. Dan is an insightful leader and has created countless opportunities for the people of Oakland County. We in Michigan know we are fortunate to have had Dan as a leader—a pioneer who established Oakland County as a model for other local governments in the State of Michigan, other States, and at the Federal level as well. It is testimony to his knowledge and leadership ability that his programs and initiatives provided an example for the entire Nation.

On behalf of those I represent and all those that he serves, I would like to pay tribute to Dan for his many efforts. His hard work and devotion will pay dividends to all of us for many years to come.

LEGISLATION TO AMEND THE U.S. HARMONIZED TARIFF SYSTEM PROVISIONS FOR AGGLOMERATED CORK

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1992

Mr. SCHULZE. Mr. Speaker, legislation amending certain provisions of the Harmonized Tariff System [HTS] of the United States dealing with the classification of agglomerated cork is needed to correct an unintended change in the tariff treatment of certain products that resulted from the replacement of the Tariff Schedules of the United States [TSUS] with the HTS.

Legislation I am introducing today would reinstate the historical tariff treatment with respect to agglomerated cork products which existed for many years prior to the implementation of the HTS. By restoring the tariff treatment for agglomerated cork that prevailed under the TSUS, this legislation will not only make the HTS consistent with the original congressional intent, but will also reduce the cost of cork to U.S. industry and American consumers and will retain jobs in the United States.

I urge you, Mr. Speaker, and our other colleagues to support this important measure.